

AMENDED IN ASSEMBLY JUNE 9, 2008

SENATE BILL

No. 1498

**Introduced by Committee on Judiciary (Senators Corbett (Chair),
Ackerman, Harman, Kuehl, and Steinberg)**

February 21, 2008

An act to amend Sections 108, 480, 490, 650, 1265.1, 1625.4, 3152, 3702, 4999.2, 4999.7, 5216.6, 5616, 5640, 6073, 6212, 6213, 7027.5, 7159, 8698.5, 14207, 14245, 16721.5, 17204, ~~17913~~, 17915, 17929, and 19596.2 of the Business and Professions Code, to amend Sections 56.10, 798.73, 1185, 1789.13, 1936, 1951.7, and 2938 of the Civil Code, to amend Sections 340.7 and 486.050 of the Code of Civil Procedure, to amend Section 9526.5 of the Commercial Code, to amend Sections 8484, 8774, 17075.10, 33051, 33382, 35021.3, 46300, 47605, 48980, 49423.5, 49431.7, 51228, 52244, 52499.66, 52861, 52922, 56030, 56300, 56302, 56328, 56331, 56341.1, 56342.1, 56363.5, 56366.1, 56426.6, 56431, 56456, 56476, 56504, 56851, 66018.55, 69551, and 71095 of, and to amend the headings of Chapter 1 (commencing with Section 8006) of Part 6 of Division 1 of Title 1 of, Article 1 (commencing with Section 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of, and Part 40.5 (commencing with Section 67500) of Division 5 of Title 3 of, the Education Code, to amend Section 13001 of the Elections Code, to amend Sections 1520 and 50700 of the Financial Code, to amend Section 8235 of the Fish and Game Code, to amend Sections 3352, 3357, and 20755 of the Food and Agricultural Code, to amend Sections 3502.5, 3517.8, 3543, 7267.2, 7576, 7585, 8588.1, 8592.1, 8879.50, 8879.60, 11126, 11549.2, 11549.5, 11549.6, 11550, 13959, 14838, 15820.104, 15820.105, 19609, 27293, 27361, 31521.3, 31739.33, 53343.1, 53601, 56100.1, 56700.1, 57009, 65007, 65865.5, 65917.5, 65962, 66474.5, 66474.62, 66540.1, 66540.9, 66540.10, 66540.12, 66540.32, 66540.54, 69615, 70375, 70391, 76000,

76000.5, 76104.1, 76104.6, 77200, 77201.1, 95001, 95003, and 95020 of, and to amend and renumber Section 66540.34 of, the Government Code, to amend Sections 1180.1, 1250.8, 1348.8, 1357.03, 1367.07, 1417.2, 1538.5, 1568.09, 1569.145, 1728.8, 11752.1, 25210.9, 25270.2, 25299.57, 25299.58, 39625.02, 43869, 44125, 44272, 101317, 111071, 116033, 121530, 122354, 124900, 124991, 127400, 127405, 128735, and 131540 of the Health and Safety Code, to amend Sections 739.3, 1063.1, 1626, 1764.1, 1765, 1872.8, 1872.81, 1872.86, and 15031 of the Insurance Code, to amend Sections 77.7, 4604.5, and 4658.5 of the Labor Code, to amend Sections 293, 398, 903.2, 1170, 1369.1, and 11062 of the Penal Code, to amend Sections 4584, 5818.2, 25402.5.4, 25402.10, 30253, 30327.5, 30327.6, 31408, 35615, and 40117 of the Public Resources Code, to amend Sections 353.1, 399.12, 884.5, and 2829 of the Public Utilities Code, to amend Sections 107.7, 8352.6, 8352.8, 17053.5, 30182, 32258, 41007, 41011, 41021, 41030, and 41099 of the Revenue and Taxation Code, to amend Sections 118, 464, 25440, and 36622 of the Streets and Highways Code, to amend Section 2739 of the Unemployment Insurance Code, to amend Sections 1803, 2430.1, 4766, 5004.1, 9853.6, 11410, 13353.2, 21251, 22511.85, 24617, 27315, 40002, and 40240 of the Vehicle Code, to amend Sections 8201, 9602, 9610, 9614, 9625, 13478, and 13480 of, and to amend and repeal Section 8610.5 of, the Water Code, to amend Sections 707, 5348, 5352.1, 5777.7, 5806, 10830, 10960, 11322.5, 14043.1, 14043.26, 14045, 14154.3, 14407.1, 15657.3, 15660, 16522.1, and 19630.5 of the Welfare and Institutions Code, to amend Section 34 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to amend Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), to amend Section 1 of Chapter 58 of the Statutes of 1997, and to amend Sections 2 and 4 of Chapter 4, Section 2 of Chapter 26, and Section 2 of Chapter 451, of the Statutes of 2007, relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1498, as amended, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 108 of the Business and Professions Code
2 is amended to read:

3 108. Each of the boards comprising the department exists as a
4 separate unit, and has the functions of setting standards, holding
5 meetings, and setting dates thereof, preparing and conducting
6 examinations, passing upon applicants, conducting investigations
7 of violations of laws under its jurisdiction, issuing citations and
8 holding hearings for the revocation of licenses, and the imposing
9 of penalties following those hearings, insofar as these powers are
10 given by statute to each respective board.

11 SEC. 2. Section 480 of the Business and Professions Code is
12 amended to read:

13 480. (a) A board may deny a license regulated by this code
14 on the grounds that the applicant has one of the following:

15 (1) Been convicted of a crime. A conviction within the meaning
16 of this section means a plea or verdict of guilty or a conviction
17 following a plea of nolo contendere. Any action that a board is
18 permitted to take following the establishment of a conviction may
19 be taken when the time for appeal has elapsed, or the judgment of
20 conviction has been affirmed on appeal, or when an order granting
21 probation is made suspending the imposition of sentence,
22 irrespective of a subsequent order under the provisions of Section
23 1203.4 of the Penal Code.

24 (2) Done any act involving dishonesty, fraud, or deceit with the
25 intent to substantially benefit himself or herself or another, or
26 substantially injure another.

27 (3) (A) Done any act that if done by a licentiate of the business
28 or profession in question, would be grounds for suspension or
29 revocation of license.

30 (B) The board may deny a license pursuant to this subdivision
31 only if the crime or act is substantially related to the qualifications,

1 functions, or duties of the business or profession for which
2 application is made.

3 (b) Notwithstanding any other provision of this code, no person
4 shall be denied a license solely on the basis that he or she has been
5 convicted of a felony if he or she has obtained a certificate of
6 rehabilitation under Chapter 3.5 (commencing with Section
7 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she
8 has been convicted of a misdemeanor if he or she has met all
9 applicable requirements of the criteria of rehabilitation developed
10 by the board to evaluate the rehabilitation of a person when
11 considering the denial of a license under subdivision (a) of Section
12 482.

13 (c) A board may deny a license regulated by this code on the
14 ground that the applicant knowingly made a false statement of fact
15 required to be revealed in the application for the license.

16 SEC. 3. Section 490 of the Business and Professions Code is
17 amended to read:

18 490. A board may suspend or revoke a license on the ground
19 that the licensee has been convicted of a crime, if the crime is
20 substantially related to the qualifications, functions, or duties of
21 the business or profession for which the license was issued. A
22 conviction within the meaning of this section means a plea or
23 verdict of guilty or a conviction following a plea of nolo
24 contendere. An action that a board is permitted to take following
25 the establishment of a conviction may be taken when the time for
26 appeal has elapsed, or the judgment of conviction has been affirmed
27 on appeal, or when an order granting probation is made suspending
28 the imposition of sentence, irrespective of a subsequent order under
29 Section 1203.4 of the Penal Code.

30 SEC. 4. Section 650 of the Business and Professions Code is
31 amended to read:

32 650. (a) Except as provided in Chapter 2.3 (commencing with
33 Section 1400) of Division 2 of the Health and Safety Code, the
34 offer, delivery, receipt, or acceptance by any person licensed under
35 this division or the Chiropractic Initiative Act of any rebate, refund,
36 commission, preference, patronage dividend, discount, or other
37 consideration, whether in the form of money or otherwise, as
38 compensation or inducement for referring patients, clients, or
39 customers to any person, irrespective of any membership,

1 proprietary interest or coownership in or with any person to whom
2 these patients, clients, or customers are referred is unlawful.

3 (b) The payment or receipt of consideration for services other
4 than the referral of patients which is based on a percentage of gross
5 revenue or similar type of contractual arrangement shall not be
6 unlawful if the consideration is commensurate with the value of
7 the services furnished or with the fair rental value of any premises
8 or equipment leased or provided by the recipient to the payer.

9 (c) The offer, delivery, receipt, or acceptance of any
10 consideration between a federally qualified health center, as defined
11 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,
12 and any individual or entity providing goods, items, services,
13 donations, loans, or a combination thereof, to the health center
14 entity pursuant to a contract, lease, grant, loan, or other agreement,
15 if that agreement contributes to the ability of the health center
16 entity to maintain or increase the availability, or enhance the
17 quality, of services provided to a medically underserved population
18 served by the health center, shall be permitted only to the extent
19 sanctioned or permitted by federal law.

20 (d) Except as provided in Chapter 2.3 (commencing with Section
21 1400) of Division 2 of the Health and Safety Code and in Sections
22 654.1 and 654.2 of this code, it shall not be unlawful for any person
23 licensed under this division to refer a person to any laboratory,
24 pharmacy, clinic (including entities exempt from licensure pursuant
25 to Section 1206 of the Health and Safety Code), or health care
26 facility solely because the licensee has a proprietary interest or
27 coownership in the laboratory, pharmacy, clinic, or health care
28 facility, provided, however, that the licensee's return on investment
29 for that proprietary interest or coownership shall be based upon
30 the amount of the capital investment or proportional ownership of
31 the licensee which ownership interest is not based on the number
32 or value of any patients referred. Any referral excepted under this
33 section shall be unlawful if the prosecutor proves that there was
34 no valid medical need for the referral.

35 (e) (1) Except as provided in Chapter 2.3 (commencing with
36 Section 1400) of Division 2 of the Health and Safety Code and in
37 Sections 654.1 and 654.2 of this code, it shall not be unlawful to
38 provide nonmonetary remuneration, in the form of hardware,
39 software, or information technology and training services,
40 necessary and used solely to receive and transmit electronic

1 prescription information in accordance with the standards set forth
2 in Section 1860D-4(e) of the Medicare Prescription Drug,
3 Improvement, and Modernization Act of 2003 (42 U.S.C. Sec.
4 1395w-104) in the following situations:

5 (A) In the case of a hospital, by the hospital to members of its
6 medical staff.

7 (B) In the case of a group medical practice, by the practice to
8 prescribing health care professionals that are members of the
9 practice.

10 (C) In the case of Medicare prescription drug plan sponsors or
11 Medicare Advantage organizations, by the sponsor or organization
12 to pharmacists and pharmacies participating in the network of the
13 sponsor or organization and to prescribing health care
14 professionals.

15 (2) The exceptions set forth in this subdivision are adopted to
16 conform state law with the provisions of Section 1860D-4(e)(6)
17 of the Medicare Prescription Drug, Improvement, and
18 Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are
19 limited to drugs covered under Part D of the federal Medicare
20 Program that are prescribed to Part D eligible individuals (42
21 U.S.C. Sec. 1395w-101).

22 (3) The exceptions set forth in this subdivision shall not be
23 operative until the regulations required to be adopted by the
24 Secretary of the United States Department of Health and Human
25 Services, pursuant to Section 1860D-4(e) of the Medicare
26 Prescription Drug, Improvement, and Modernization Act of 2003
27 (42 U.S.C. Sec. 1395w-104) are effective. If the California Health
28 and Human Services Agency determines that regulations are
29 necessary to ensure that implementation of the provisions of
30 paragraph (1) is consistent with the regulations adopted by the
31 Secretary of the United States Department of Health and Human
32 Services, it shall adopt emergency regulations to that effect.

33 (f) “Health care facility” means a general acute care hospital,
34 acute psychiatric hospital, skilled nursing facility, intermediate
35 care facility, and any other health facility licensed by the State
36 Department of Public Health under Chapter 2 (commencing with
37 Section 1250) of Division 2 of the Health and Safety Code.

38 (g) A violation of this section is a public offense and is
39 punishable upon a first conviction by imprisonment in a county
40 jail for not more than one year, or by imprisonment in the state

1 prison, or by a fine not exceeding fifty thousand dollars (\$50,000),
2 or by both that imprisonment and fine. A second or subsequent
3 conviction is punishable by imprisonment in the state prison or by
4 imprisonment in the state prison and a fine of fifty thousand dollars
5 (\$50,000).

6 SEC. 5. Section 1265.1 of the Business and Professions Code
7 is amended to read:

8 1265.1. (a) A primary care clinic that submits an application
9 to the State Department of Public Health for clinic licensure
10 pursuant to subdivision (a) of Section 1204 of the Health and Safety
11 Code may submit prior to that submission, or concurrent therewith,
12 an application for licensure or registration of a clinical laboratory
13 to be operated by the clinic.

14 (b) An application for licensure of a clinical laboratory submitted
15 pursuant to this section shall be subject to all applicable laboratory
16 licensing laws and regulations, including, but not limited to, any
17 statutory or regulatory timelines and processes for review of a
18 clinical laboratory application.

19 SEC. 6. Section 1625.4 of the Business and Professions Code
20 is amended to read:

21 1625.4. (a) Where the dental practice of an incapacitated or
22 deceased dentist is a sole proprietorship or where an incapacitated
23 or deceased dentist is the sole shareholder of a professional dental
24 corporation, a person identified in subdivision (a) of Section 1625.3
25 may enter into a contract with one or more dentists licensed in the
26 state to continue the operations of the incapacitated or deceased
27 dentist's dental practice for a period of no more than 12 months
28 from the date of death or incapacity, or until the practice is sold
29 or otherwise disposed of, whichever occurs first, if all of the
30 following conditions are met:

31 (1) The person identified in subdivision (a) of Section 1625.3
32 delivers to the board a notification of death or incapacity that
33 includes all of the following information:

34 (A) The name and license number of the deceased or
35 incapacitated dentist.

36 (B) The name and address of the dental practice.

37 (C) If the dentist is deceased, the name, address, and tax
38 identification number of the estate or trust.

39 (D) The name and license number of each dentist who will
40 operate the dental practice.

1 (E) A statement that the information provided is true and correct,
2 and that the person identified in subdivision (a) of Section 1625.3
3 understands that any interference by the person or by his or her
4 assignee with the contracting dentist's or dentists' practice of
5 dentistry or professional judgment is grounds for immediate
6 termination of the operations of the dental practice without a
7 hearing. The statement shall also provide that if the person required
8 to make this notification willfully states as true any material fact
9 that he or she knows to be false, he or she shall be subject to a civil
10 penalty of up to ten thousand dollars (\$10,000) in an action brought
11 by any public prosecutor. A civil penalty imposed under this
12 subparagraph shall be enforced as a civil judgment.

13 (2) The dentist or dentists who will operate the practice shall
14 be licensed by the board and that license shall be current, valid,
15 and shall not be suspended, restricted, or otherwise the subject of
16 discipline.

17 (3) Within 30 days after the death or incapacity of a dentist, the
18 person identified in subdivision (a) of Section 1625.3 or the
19 contracting dentist or dentists shall send notification of the death
20 or incapacity by mail to the last known address of each current
21 patient of record with an explanation of how copies of the patient's
22 records may be obtained. This notice may also contain any other
23 relevant information concerning the continuation of the dental
24 practice. The failure to comply with the notification requirement
25 within the 30-day period shall be grounds for terminating the
26 operation of the dental practice under subdivision (b). The
27 contracting dentist or dentists shall obtain a form signed by the
28 patient, or the patient's guardian or legal representative, that
29 releases the patient's confidential dental records to the contracting
30 dentist or dentists prior to use of those records.

31 (b) The board may order the termination of the operations of a
32 dental practice operating pursuant to this section if the board
33 determines that the practice is operating in violation of this section.
34 The board shall provide written notification at the address provided
35 pursuant to subparagraph (B) of paragraph (1) of subdivision (a).
36 If the board does not receive a written appeal of the determination
37 that the practice is operating in violation of this section within 10
38 days of receipt of the notice, the determination to terminate the
39 operations of the dental practice shall take effect immediately. If
40 an appeal is received in a timely manner by the board, the executive

1 officer of the board, or his or her designee, shall conduct an
2 informal hearing. The decision of the executive officer or his or
3 her designee shall be mailed to the practice no later than 10 days
4 after the informal hearing, is the final decision in the matter, and
5 is not subject to appeal under the Administrative Procedure Act
6 (Chapter 5 (commencing with Section 11500) of Part 1 of Division
7 3 of Title 2 of the Government Code).

8 (c) Notwithstanding subdivision (b), if the board finds evidence
9 that the person identified in subdivision (a) of Section 1625.3, or
10 his or her assignee, has interfered with the practice or professional
11 judgment of the contracting dentist or dentists or otherwise finds
12 evidence that a violation of this section constitutes an immediate
13 threat to the public health, safety, or welfare, the board may
14 immediately order the termination of the operations of the dental
15 practice without an informal hearing.

16 (d) A notice of an order of immediate termination of the dental
17 practice without an informal hearing, as referenced in subdivision
18 (b), shall be served by certified mail on the person identified in
19 subdivision (a) of Section 1625.3 at the address provided pursuant
20 to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as
21 appropriate, and on the contracting dentist or dentists at the address
22 of the dental practice provided pursuant to subparagraph (B) of
23 paragraph (1) of subdivision (a).

24 (e) A person receiving notice of an order of immediate
25 termination pursuant to subdivision (d) may petition the board
26 within 30 days of the date of service of the notice for an informal
27 hearing before the executive officer or his or her designee, which
28 shall take place within 30 days of the filing of the petition.

29 (f) A notice of the decision of the executive officer or his or her
30 designee following an informal hearing held pursuant to
31 subdivision (b) shall be served by certified mail on the person
32 identified in subdivision (a) of Section 1625.3 at the address
33 provided pursuant to subparagraph (B) or (C) of paragraph (1) of
34 subdivision (a), as appropriate, and on the contracting dentist or
35 dentists at the address of the dental practice provided pursuant to
36 subparagraph (B) of paragraph (1) of subdivision (a).

37 (g) The board may require the submission to the board of any
38 additional information necessary for the administration of this
39 section.

1 SEC. 7. Section 3152 of the Business and Professions Code is
2 amended to read:

3 3152. The amounts of fees and penalties prescribed by this
4 chapter shall be established by the board in amounts not greater
5 than those specified in the following schedule:

6 (a) The fee for applicants applying for a license shall not exceed
7 two hundred seventy-five dollars (\$275).

8 (b) The fee for renewal of an optometric license shall not exceed
9 five hundred dollars (\$500).

10 (c) The annual fee for the renewal of a branch office license
11 shall not exceed seventy-five dollars (\$75).

12 (d) The fee for a branch office license shall not exceed
13 seventy-five dollars (\$75).

14 (e) The penalty for failure to pay the annual fee for renewal of
15 a branch office license shall not exceed twenty-five dollars (\$25).

16 (f) The fee for issuance of a license or upon change of name
17 authorized by law of a person holding a license under this chapter
18 shall not exceed twenty-five dollars (\$25).

19 (g) The delinquency fee for renewal of an optometric license
20 shall not exceed fifty dollars (\$50).

21 (h) The application fee for a certificate to treat lacrimal irrigation
22 and dilation shall not exceed fifty dollars (\$50).

23 (i) The application fee for a certificate to treat primary
24 open-angle glaucoma shall not exceed fifty dollars (\$50).

25 (j) The fee for approval of a continuing education course shall
26 not exceed one hundred dollars (\$100).

27 (k) The fee for issuance of a statement of licensure shall not
28 exceed forty dollars (\$40).

29 (l) The fee for biennial renewal of a statement of licensure shall
30 not exceed forty dollars (\$40).

31 (m) The delinquency fee for renewal of a statement of licensure
32 shall not exceed twenty dollars (\$20).

33 (n) The application fee for a fictitious name permit shall not
34 exceed fifty dollars (\$50).

35 (o) The renewal fee for a fictitious name permit shall not exceed
36 fifty dollars (\$50).

37 (p) The delinquency fee for renewal of a fictitious name permit
38 shall not exceed twenty-five dollars (\$25).

39 SEC. 8. Section 3702 of the Business and Professions Code is
40 amended to read:

1 3702. Respiratory care as a practice means a health care
2 profession employed under the supervision of a medical director
3 in the therapy, management, rehabilitation, diagnostic evaluation,
4 and care of patients with deficiencies and abnormalities which
5 affect the pulmonary system and associated aspects of
6 cardiopulmonary and other systems functions, and includes all of
7 the following:

8 (a) Direct and indirect pulmonary care services that are safe,
9 aseptic, preventive, and restorative to the patient.

10 (b) Direct and indirect respiratory care services, including, but
11 not limited to, the administration of pharmacological and diagnostic
12 and therapeutic agents related to respiratory care procedures
13 necessary to implement a treatment, disease prevention, pulmonary
14 rehabilitative, or diagnostic regimen prescribed by a physician and
15 surgeon.

16 (c) Observation and monitoring of signs and symptoms, general
17 behavior, general physical response to respiratory care treatment
18 and diagnostic testing and (1) determination of whether such signs,
19 symptoms, reactions, behavior, or general response exhibits
20 abnormal characteristics; (2) implementation based on observed
21 abnormalities of appropriate reporting or referral or respiratory
22 care protocols, or changes in treatment regimen, pursuant to a
23 prescription by a physician and surgeon or the initiation of
24 emergency procedures.

25 (d) The diagnostic and therapeutic use of any of the following,
26 in accordance with the prescription of a physician and surgeon:
27 administration of medical gases, exclusive of general anesthesia;
28 aerosols; humidification; environmental control systems and
29 baromedical therapy; pharmacologic agents related to respiratory
30 care procedures; mechanical or physiological ventilatory support;
31 bronchopulmonary hygiene; cardiopulmonary resuscitation;
32 maintenance of the natural airways; insertion without cutting tissues
33 and maintenance of artificial airways; diagnostic and testing
34 techniques required for implementation of respiratory care
35 protocols; collection of specimens of blood; collection of specimens
36 from the respiratory tract; analysis of blood gases and respiratory
37 secretions.

38 (e) The transcription and implementation of the written and
39 verbal orders of a physician and surgeon pertaining to the practice
40 of respiratory care.

1 “Respiratory care protocols” as used in this section means
2 policies and protocols developed by a licensed health facility
3 through collaboration, when appropriate, with administrators,
4 physicians and surgeons, registered nurses, physical therapists,
5 respiratory care practitioners, and other licensed health care
6 practitioners.

7 SEC. 9. Section 4999.2 of the Business and Professions Code
8 is amended to read:

9 4999.2. (a) In order to obtain and maintain a registration,
10 in-state or out-of-state telephone medical advice services shall
11 comply with the requirements established by the department. Those
12 requirements shall include, but shall not be limited to, all of the
13 following:

14 (1) (A) Ensuring that all staff who provide medical advice
15 services are appropriately licensed, certified, or registered as a
16 physician and surgeon pursuant to Chapter 5 (commencing with
17 Section 2000) or the Osteopathic Initiative Act, as a dentist
18 pursuant to Chapter 4 (commencing with Section 1600), as a dental
19 hygienist pursuant to Sections 1760 to 1775, inclusive, as a
20 psychologist pursuant to Chapter 6.6 (commencing with Section
21 2900), as an optometrist pursuant to Chapter 7 (commencing with
22 Section 3000), as a marriage and family therapist pursuant to
23 Chapter 13 (commencing with Section 4980), as a licensed clinical
24 social worker pursuant to Chapter 14 (commencing with Section
25 4991), or as a chiropractor pursuant to the Chiropractic Initiative
26 Act, and operating consistent with the laws governing their
27 respective scopes of practice in the state within which they provide
28 telephone medical advice services, except as provided in paragraph
29 (2).

30 (B) Ensuring that all staff who provide telephone medical advice
31 services from an out-of-state location are health care professionals,
32 as identified in subparagraph (A), who are licensed, registered, or
33 certified in the state within which they are providing the telephone
34 medical advice services and are operating consistent with the laws
35 governing their respective scopes of practice.

36 (2) Ensuring that all registered nurses providing telephone
37 medical advice services to both in-state and out-of-state business
38 entities registered pursuant to this chapter are licensed pursuant
39 to Chapter 6 (commencing with Section 2700).

1 (3) Ensuring that the telephone medical advice provided is
2 consistent with good professional practice.

3 (4) Maintaining records of telephone medical advice services,
4 including records of complaints, provided to patients in California
5 for a period of at least five years.

6 (5) Ensuring that no staff member uses a title or designation
7 when speaking to an enrollee or subscriber that may cause a
8 reasonable person to believe that the staff member is a licensed,
9 certified, or registered professional described in subparagraph (A)
10 of paragraph (1), unless the staff member is a licensed, certified,
11 or registered professional.

12 (6) Complying with all directions and requests for information
13 made by the department.

14 (b) To the extent permitted by Article VII of the California
15 Constitution, the department may contract with a private nonprofit
16 accrediting agency to evaluate the qualifications of applicants for
17 registration pursuant to this chapter and to make recommendations
18 to the department.

19 SEC. 10. Section 4999.7 of the Business and Professions Code
20 is amended to read:

21 4999.7. (a) This section does not limit, preclude, or otherwise
22 interfere with the practices of other persons licensed or otherwise
23 authorized to practice, under any other provision of this division,
24 telephone medical advice services consistent with the laws
25 governing their respective scopes of practice, or licensed under
26 the Osteopathic Initiative Act or the Chiropractic Initiative Act
27 and operating consistent with the laws governing their respective
28 scopes of practice.

29 (b) For purposes of this chapter, “telephone medical advice”
30 means a telephonic communication between a patient and a health
31 care professional in which the health care professional’s primary
32 function is to provide to the patient a telephonic response to the
33 patient’s questions regarding his or her or a family member’s
34 medical care or treatment. “Telephone medical advice” includes
35 assessment, evaluation, or advice provided to patients or their
36 family members.

37 (c) For purposes of this chapter, “health care professional” is a
38 staff person described in Section 4999.2 who provides medical
39 advice services and is appropriately licensed, certified, or registered
40 as a dentist pursuant to Chapter 4 (commencing with Section 1600),

1 as a dental hygienist pursuant to Sections 1760 to 1775, inclusive,
2 as a physician and surgeon pursuant to Chapter 5 (commencing
3 with Section 2000) or the Osteopathic Initiative Act, as a registered
4 nurse pursuant to Chapter 6 (commencing with Section 2700), as
5 a psychologist pursuant to Chapter 6.6 (commencing with Section
6 2900), as an optometrist pursuant to Chapter 7 (commencing with
7 Section 3000), as a marriage and family therapist pursuant to
8 Chapter 13 (commencing with Section 4980), as a licensed clinical
9 social worker pursuant to Chapter 14 (commencing with Section
10 4991), or as a chiropractor pursuant to the Chiropractic Initiative
11 Act, and who is operating consistent with the laws governing his
12 or her respective scopes of practice in the state in which he or she
13 provides telephone medical advice services.

14 SEC. 11. Section 5216.6 of the Business and Professions Code
15 is amended to read:

16 5216.6. (a) “Officially designated scenic highway or scenic
17 byway” is any state highway that has been officially designated
18 and maintained as a state scenic highway pursuant to Sections 260,
19 261, 262, and 262.5 of the Streets and Highways Code or that has
20 been officially designated a scenic byway as referred to in Section
21 131(s) of Title 23 of the United States Code.

22 (b) “Officially designated scenic highway or scenic byway”
23 does not include routes listed as part of the State Scenic Highway
24 system, Article 2.5 (commencing with Section 260) of Chapter 2
25 of Division 1 of the Streets and Highways Code, unless those
26 routes, or segments of those routes, have been designated as
27 officially designated state scenic highways.

28 SEC. 12. Section 5616 of the Business and Professions Code
29 is amended to read:

30 5616. (a) A landscape architect shall use a written contract
31 when contracting to provide professional services to a client
32 pursuant to this chapter. The written contract shall be executed by
33 the landscape architect and the client, or their representatives, prior
34 to the landscape architect commencing work, unless the client
35 knowingly states in writing that work may be commenced before
36 the contract is executed. The written contract shall include, but
37 not be limited to, all of the following:

38 (1) A description of services to be provided by the landscape
39 architect to the client.

1 (2) A description of any basis of compensation applicable to
2 the contract, including the total price that is required to complete
3 the contract, and the method of payment agreed upon by both
4 parties.

5 (3) A notice that reads:

6 “Landscape architects are licensed by the State of California.”

7 (4) The name, address, and license number of the landscape
8 architect and the name and address of the client.

9 (5) A description of the procedure that the landscape architect
10 and client will use to accommodate additional services.

11 (6) A description of the procedure to be used by either party to
12 terminate the contract.

13 (b) This section shall not apply if the client knowingly states in
14 writing after full disclosure of this section that a contract that
15 complies with this section is not required.

16 (c) This section shall not apply to any of the following:

17 (1) Professional services rendered by a landscape architect for
18 which the client will not pay compensation.

19 (2) An arrangement as to the basis for compensation and manner
20 of providing professional services implied by the fact that the
21 landscape architect’s services are of the same general kind that the
22 landscape architect has previously rendered to, and received
23 payment for from, the same client.

24 (3) Professional services rendered by a landscape architect to
25 any of the following:

26 (A) A landscape architect licensed under this chapter.

27 (B) An architect licensed under Chapter 3 (commencing with
28 Section 5500).

29 (C) A professional engineer licensed under Chapter 7
30 (commencing with Section 6700).

31 (D) A contractor licensed under Chapter 9 (commencing with
32 Section 7000).

33 (E) A geologist or geophysicist licensed under Chapter 12.5
34 (commencing with Section 7800).

35 (F) A professional land surveyor licensed under Chapter 15
36 (commencing with Section 8700).

37 (G) A manufacturing, mining, public utility, research and
38 development, or other industrial corporation, if the services are
39 provided in connection with, or incidental to, the products, systems,
40 or services of that corporation or its affiliates.

1 (H) A public agency.

2 (d) As used in this section, “written contract” includes a contract
3 that is in electronic form.

4 SEC. 13. Section 5640 of the Business and Professions Code
5 is amended to read:

6 5640. It is a misdemeanor, punishable by a fine of not less than
7 one hundred dollars (\$100) nor more than five thousand dollars
8 (\$5,000) or by imprisonment in a county jail not exceeding six
9 months, or by both that fine and imprisonment, for a person to do
10 any of the following without possessing a valid, unrevoked license
11 as provided in this chapter:

12 (a) Engage in the practice of landscape architecture.

13 (b) Use the title or term “landscape architect,” “landscape
14 architecture,” “landscape architectural,” or any other titles, words,
15 or abbreviations that would imply or indicate that he or she is a
16 landscape architect as defined in Section 5615.

17 (c) Use the stamp of a licensed landscape architect, as provided
18 in Section 5659.

19 (d) Advertise or put out a sign, card, or other device that might
20 indicate to the public that he or she is a licensed landscape architect
21 or qualified to engage in the practice of landscape architecture.

22 SEC. 14. Section 6073 of the Business and Professions Code
23 is amended to read:

24 6073. It has been the tradition of those learned in the law and
25 licensed to practice law in this state to provide voluntary pro bono
26 legal services to those who cannot afford the help of a lawyer.
27 Every lawyer authorized and privileged to practice law in California
28 is expected to make a contribution. In some circumstances, it may
29 not be feasible for a lawyer to directly provide pro bono services.
30 In those circumstances, a lawyer may instead fulfill his or her
31 individual pro bono ethical commitment, in part, by providing
32 financial support to organizations providing free legal services to
33 persons of limited means. In deciding to provide that financial
34 support, the lawyer should, at minimum, approximate the value
35 of the hours of pro bono legal service that he or she would
36 otherwise have provided. In some circumstances, pro bono
37 contributions may be measured collectively, as by a firm’s
38 aggregate pro bono activities or financial contributions. Lawyers
39 also make invaluable contributions through their other voluntary
40 public service activities that increase access to justice or improve

1 the law and the legal system. In view of their expertise in areas
2 that critically affect the lives and well-being of members of the
3 public, lawyers are uniquely situated to provide invaluable
4 assistance in order to benefit those who might otherwise be unable
5 to assert or protect their interests, and to support those legal
6 organizations that advance these goals.

7 SEC. 15. Section 6212 of the Business and Professions Code
8 is amended to read:

9 6212. An attorney who, or a law firm that, establishes an
10 IOLTA account pursuant to subdivision (a) of Section 6211 shall
11 comply with all of the following provisions:

12 (a) The IOLTA account shall be established and maintained
13 with an eligible institution offering or making available an IOLTA
14 account that meets the requirements of this article. The IOLTA
15 account shall be established and maintained consistent with the
16 attorney's or law firm's duties of professional responsibility. An
17 eligible financial institution shall have no responsibility for
18 selecting the deposit or investment product chosen for the IOLTA
19 account.

20 (b) Except as provided in subdivision (e), the rate of interest or
21 dividends payable on any IOLTA account shall not be less than
22 the interest rate or dividends generally paid by the eligible
23 institution to nonattorney customers on accounts of the same type
24 meeting the same minimum balance and other eligibility
25 requirements as the IOLTA account. In determining the interest
26 rate or dividend payable on any IOLTA account, an eligible
27 institution may consider, in addition to the balance in the IOLTA
28 account, risk or other factors customarily considered by the eligible
29 institution when setting the interest rate or dividends for its
30 non-IOLTA accounts, provided that the factors do not discriminate
31 between IOLTA customers and non-IOLTA customers and that
32 these factors do not include the fact that the account is an IOLTA
33 account. The eligible institution shall calculate interest and
34 dividends in accordance with its standard practice for non-IOLTA
35 customers. Nothing in this article shall preclude an eligible
36 institution from paying a higher interest rate or dividend on an
37 IOLTA account or from electing to waive any fees and service
38 charges on an IOLTA account.

39 (c) Reasonable fees may be deducted from the interest or
40 dividends remitted on an IOLTA account only at the rates and in

1 accordance with the customary practices of the eligible institution
2 for non-IOLTA customers. No other fees or service charges may
3 be deducted from the interest or dividends earned on an IOLTA
4 account. Unless and until the State Bar enacts regulations
5 exempting from compliance with subdivision (a) of Section 6211
6 those accounts for which maintenance fees exceed the interest or
7 dividends paid, an eligible institution may deduct the fees and
8 service charges in excess of the interest or dividends paid on an
9 IOLTA account from the aggregate interest and dividends remitted
10 to the State Bar. Fees and service charges other than reasonable
11 fees shall be the sole responsibility of, and may only be charged
12 to, the attorney or law firm maintaining the IOLTA account. Fees
13 and charges shall not be assessed against or deducted from the
14 principal of any IOLTA account. It is the intent of the Legislature
15 that the State Bar develop policies so that eligible institutions do
16 not incur uncompensated administrative costs in adapting their
17 systems to comply with the provisions of Chapter 422 of the
18 Statutes of 2007 or in making investment products available to
19 IOLTA members.

20 (d) The eligible institution shall be directed to do all of the
21 following:

22 (1) To remit interest or dividends on the IOLTA account, less
23 reasonable fees, to the State Bar, at least quarterly.

24 (2) To transmit to the State Bar with each remittance a statement
25 showing the name of the attorney or law firm for which the
26 remittance is sent, for each account the rate of interest applied or
27 dividend paid, the amount and type of fees deducted, if any, and
28 the average balance for each account for each month of the period
29 for which the report is made.

30 (3) To transmit to the attorney or law firm customer at the same
31 time a report showing the amount paid to the State Bar for that
32 period, the rate of interest or dividend applied, the amount of fees
33 and service charges deducted, if any, and the average daily account
34 balance for each month of the period for which the report is made.

35 (e) An eligible institution has no affirmative duty to offer or
36 make investment products available to IOLTA customers.
37 However, if an eligible institution offers or makes investment
38 products available to non-IOLTA customers, in order to remain
39 an IOLTA-eligible institution, it shall make those products
40 available to IOLTA customers or pay an interest rate on the IOLTA

1 deposit account that is comparable to the rate of return or the
2 dividends generally paid on that investment product for similar
3 customers meeting the same minimum balance and other
4 requirements applicable to the investment product. If the eligible
5 institution elects to pay that higher interest rate, the eligible
6 institution may subject the IOLTA deposit account to equivalent
7 fees and charges assessable against the investment product.

8 SEC. 16. Section 6213 of the Business and Professions Code
9 is amended to read:

10 6213. As used in this article:

11 (a) “Qualified legal services project” means either of the
12 following:

13 (1) A nonprofit project incorporated and operated exclusively
14 in California which provides as its primary purpose and function
15 legal services without charge to indigent persons and which has
16 quality control procedures approved by the State Bar of California.

17 (2) A program operated exclusively in California by a nonprofit
18 law school accredited by the State Bar of California which meets
19 the requirements of subparagraphs (A) and (B).

20 (A) The program shall have operated for at least two years at a
21 cost of at least twenty thousand dollars (\$20,000) per year as an
22 identifiable law school unit with a primary purpose and function
23 of providing legal services without charge to indigent persons.

24 (B) The program shall have quality control procedures approved
25 by the State Bar of California.

26 (b) “Qualified support center” means an incorporated nonprofit
27 legal services center that has as its primary purpose and function
28 the provision of legal training, legal technical assistance, or
29 advocacy support without charge and which actually provides
30 through an office in California a significant level of legal training,
31 legal technical assistance, or advocacy support without charge to
32 qualified legal services projects on a statewide basis in California.

33 (c) “Recipient” means a qualified legal services project or
34 support center receiving financial assistance under this article.

35 (d) “Indigent person” means a person whose income is (1) 125
36 percent or less of the current poverty threshold established by the
37 United States Office of Management and Budget, or (2) who is
38 eligible for Supplemental Security Income or free services under
39 the Older Americans Act or Developmentally Disabled Assistance
40 Act. With regard to a project that provides free services of attorneys

1 in private practice without compensation, “indigent person” also
2 means a person whose income is 75 percent or less of the maximum
3 levels of income for lower income households as defined in Section
4 50079.5 of the Health and Safety Code. For the purpose of this
5 subdivision, the income of a person who is disabled shall be
6 determined after deducting the costs of medical and other
7 disability-related special expenses.

8 (e) “Fee generating case” means a case or matter that, if
9 undertaken on behalf of an indigent person by an attorney in private
10 practice, reasonably may be expected to result in payment of a fee
11 for legal services from an award to a client, from public funds, or
12 from the opposing party. A case shall not be considered fee
13 generating if adequate representation is unavailable and any of the
14 following circumstances exist:

15 (1) The recipient has determined that free referral is not possible
16 because of any of the following reasons:

17 (A) The case has been rejected by the local lawyer referral
18 service, or if there is no such service, by two attorneys in private
19 practice who have experience in the subject matter of the case.

20 (B) Neither the referral service nor any attorney will consider
21 the case without payment of a consultation fee.

22 (C) The case is of the type that attorneys in private practice in
23 the area ordinarily do not accept, or do not accept without
24 prepayment of a fee.

25 (D) Emergency circumstances compel immediate action before
26 referral can be made, but the client is advised that, if appropriate
27 and consistent with professional responsibility, referral will be
28 attempted at a later time.

29 (2) Recovery of damages is not the principal object of the case
30 and a request for damages is merely ancillary to an action for
31 equitable or other nonpecuniary relief, or inclusion of a
32 counterclaim requesting damages is necessary for effective defense
33 or because of applicable rules governing joinder of counterclaims.

34 (3) A court has appointed a recipient or an employee of a
35 recipient pursuant to a statute or a court rule or practice of equal
36 applicability to all attorneys in the jurisdiction.

37 (4) The case involves the rights of a claimant under a publicly
38 supported benefit program for which entitlement to benefit is based
39 on need.

1 (f) “Legal Services Corporation” means the Legal Services
2 Corporation established under the Legal Services Corporation Act
3 of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

4 (g) “Older Americans Act” means the Older Americans Act of
5 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

6 (h) “Developmentally Disabled Assistance Act” means the
7 Developmentally Disabled Assistance and Bill of Rights Act, as
8 amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

9 (i) “Supplemental security income recipient” means an
10 individual receiving or eligible to receive payments under Title
11 XVI of the federal Social Security Act, or payments under Chapter
12 3 (commencing with Section 12000) of Part 3 of Division 9 of the
13 Welfare and Institutions Code.

14 (j) “IOLTA account” means an account or investment product
15 established and maintained pursuant to subdivision (a) of Section
16 6211 that is any of the following:

17 (1) An interest-bearing checking account.

18 (2) An investment sweep product that is a daily (overnight)
19 financial institution repurchase agreement or an open-end
20 money-market fund.

21 (3) An investment product authorized by California Supreme
22 Court rule or order.

23 A daily financial institution repurchase agreement shall be fully
24 collateralized by United States Government Securities or other
25 comparably conservative debt securities, and may be established
26 only with any eligible institution that is “well-capitalized” or
27 “adequately capitalized” as those terms are defined by applicable
28 federal statutes and regulations. An open-end money-market fund
29 shall be invested solely in United States Government Securities
30 or repurchase agreements fully collateralized by United States
31 Government Securities or other comparably conservative debt
32 securities, shall hold itself out as a “money-market fund” as that
33 term is defined by federal statutes and regulations under the
34 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.),
35 and, at the time of the investment, shall have total assets of at least
36 two hundred fifty million dollars (\$250,000,000).

37 (k) “Eligible institution” means a bank or any other type of
38 financial institution authorized by the Supreme Court.

39 SEC. 17. Section 7027.5 of the Business and Professions Code
40 is amended to read:

1 7027.5. (a) A landscape contractor working within the
2 classification for which the license is issued may design systems
3 or facilities for work to be performed and supervised by that
4 contractor.

5 (b) Notwithstanding any other provision of this chapter, a
6 landscape contractor working within the classification for which
7 the license is issued may enter into a prime contract for the
8 construction of any of the following:

9 (1) A swimming pool, spa, or hot tub, provided that the
10 improvements are included within the landscape project that the
11 landscape contractor is supervising and the construction of any
12 swimming pool, spa, or hot tub is subcontracted to a single licensed
13 contractor holding a Swimming Pool (C-53) classification, as set
14 forth in Section 832.53 of Title 16 of the California Code of
15 Regulations, or performed by the landscape contractor if the
16 landscape contractor also holds a Swimming Pool (C-53)
17 classification. The contractor constructing the swimming pool,
18 spa, or hot tub may subcontract with other appropriately licensed
19 contractors for the completion of individual components of the
20 construction.

21 (2) An outdoor cooking center, provided that the improvements
22 are included within a residential landscape project that the
23 contractor is supervising. For purposes of this subdivision, “outdoor
24 cooking center” means an unenclosed area within a landscape that
25 is used for the cooking or preparation of food or beverages.

26 (3) An outdoor fireplace, provided that it is included within a
27 residential landscape project that the contractor is supervising and
28 is not attached to a dwelling.

29 (c) Work performed in connection with a residential landscape
30 project specified in paragraph (2) or (3) of subdivision (b) that is
31 outside of the field and scope of activities authorized to be
32 performed under the Landscape Contractor classification (C-27),
33 as set forth in Section 832.27 of Title 16 of the California Code
34 of Regulations, may only be performed by a landscape contractor
35 if the landscape contractor also either holds an appropriate specialty
36 license classification to perform the work or is licensed as a general
37 building contractor. If the landscape contractor neither holds an
38 appropriate specialty license classification to perform the work
39 nor is licensed as a general building contractor, the work shall be
40 performed by a specialty contractor holding the appropriate license

1 classification or by a general building contractor performing work
2 in accordance with the requirements of subdivision (b) of Section
3 7057.

4 (d) A violation of this section shall be cause for disciplinary
5 action.

6 SEC. 18. Section 7159 of the Business and Professions Code
7 is amended to read:

8 7159. (a) (1) This section identifies the projects for which a
9 home improvement contract is required, outlines the contract
10 requirements, and lists the items that shall be included in the
11 contract, or may be provided as an attachment.

12 (2) This section does not apply to service and repair contracts
13 that are subject to Section 7159.10, if the contract for the applicable
14 services complies with Sections 7159.10 to 7159.14, inclusive.

15 (3) This section does not apply to the sale, installation, and
16 servicing of a fire alarm sold in conjunction with an alarm system,
17 as defined in subdivision (n) of Section 7590.1, if all costs
18 attributable to making the fire alarm system operable, including
19 sale and installation costs, do not exceed five hundred dollars
20 (\$500), and the licensee complies with the requirements set forth
21 in Section 7159.9.

22 (4) This section does not apply to any costs associated with
23 monitoring a burglar or fire alarm system.

24 (5) Failure by the licensee, his or her agent or salesperson, or
25 by a person subject to be licensed under this chapter, to provide
26 the specified information, notices, and disclosures in the contract,
27 or to otherwise fail to comply with any provision of this section,
28 is cause for discipline.

29 (b) For purposes of this section, “home improvement contract”
30 means an agreement, whether oral or written, or contained in one
31 or more documents, between a contractor and an owner or between
32 a contractor and a tenant, regardless of the number of residence
33 or dwelling units contained in the building in which the tenant
34 resides, if the work is to be performed in, to, or upon the residence
35 or dwelling unit of the tenant, for the performance of a home
36 improvement, as defined in Section 7151, and includes all labor,
37 services, and materials to be furnished and performed thereunder,
38 if the aggregate contract price specified in one or more
39 improvement contracts, including all labor, services, and materials
40 to be furnished by the contractor, exceeds five hundred dollars

1 (\$500). “Home improvement contract” also means an agreement,
2 whether oral or written, or contained in one or more documents,
3 between a salesperson, whether or not he or she is a home
4 improvement salesperson, and an owner or a tenant, regardless of
5 the number of residence or dwelling units contained in the building
6 in which the tenant resides, which provides for the sale, installation,
7 or furnishing of home improvement goods or services.

8 (c) In addition to the specific requirements listed under this
9 section, every home improvement contract and any person subject
10 to licensure under this chapter or his or her agent or salesperson
11 shall comply with all of the following:

12 (1) The writing shall be legible.

13 (2) Any printed form shall be readable. Unless a larger typeface
14 is specified in this article, text in any printed form shall be in at
15 least 10-point typeface and the headings shall be in at least 10-point
16 boldface type.

17 (3) (A) Before any work is started, the contractor shall give the
18 buyer a copy of the contract signed and dated by both the contractor
19 and the buyer. The buyer’s receipt of the copy of the contract
20 initiates the buyer’s rights to cancel the contract pursuant to
21 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

22 (B) The contract shall contain on the first page, in a typeface
23 no smaller than that generally used in the body of the document,
24 both of the following:

25 (i) The date the buyer signed the contract.

26 (ii) The name and address of the contractor to which the
27 applicable “Notice of Cancellation” is to be mailed, immediately
28 preceded by a statement advising the buyer that the “Notice of
29 Cancellation” may be sent to the contractor at the address noted
30 on the contract.

31 (4) A statement that, upon satisfactory payment being made for
32 any portion of the work performed, the contractor, prior to any
33 further payment being made, shall furnish to the person contracting
34 for the home improvement or swimming pool work a full and
35 unconditional release from any claim or mechanic’s lien pursuant
36 to Section 3114 of the Civil Code for that portion of the work for
37 which payment has been made.

38 (5) A change-order form for changes or extra work shall be
39 incorporated into the contract and shall become part of the contract

1 only if it is in writing and signed by the parties prior to the
2 commencement of any work covered by a change order.

3 (6) The contract shall contain, in close proximity to the
4 signatures of the owner and contractor, a notice stating that the
5 owner or tenant has the right to require the contractor to have a
6 performance and payment bond.

7 (7) If the contract provides for a contractor to furnish joint
8 control, the contractor shall not have any financial or other interest
9 in the joint control.

10 (8) The provisions of this section are not exclusive and do not
11 relieve the contractor from compliance with any other applicable
12 provision of law.

13 (d) A home improvement contract and any changes to the
14 contract shall be in writing and signed by the parties to the contract
15 prior to the commencement of work covered by the contract or an
16 applicable change order and, except as provided in paragraph (8)
17 of subdivision (a) of Section 7159.5, shall include or comply with
18 all of the following:

19 (1) The name, business address, and license number of the
20 contractor.

21 (2) If applicable, the name and registration number of the home
22 improvement salesperson that solicited or negotiated the contract.

23 (3) The following heading on the contract form that identifies
24 the type of contract in at least 10-point boldface type: “Home
25 Improvement.”

26 (4) The following statement in at least 12-point boldface type:
27 “You are entitled to a completely filled in copy of this agreement,
28 signed by both you and the contractor, before any work may be
29 started.”

30 (5) The heading: “Contract Price,” followed by the amount of
31 the contract in dollars and cents.

32 (6) If a finance charge will be charged, the heading: “Finance
33 Charge,” followed by the amount in dollars and cents. The finance
34 charge is to be set out separately from the contract amount.

35 (7) The heading: “Description of the Project and Description
36 of the Significant Materials to be Used and Equipment to be
37 Installed,” followed by a description of the project and a description
38 of the significant materials to be used and equipment to be installed.
39 For swimming pools, the project description required under this
40 paragraph also shall include a plan and scale drawing showing the

1 shape, size, dimensions, and the construction and equipment
2 specifications.

3 (8) If a downpayment will be charged, the details of the
4 downpayment shall be expressed in substantially the following
5 form, and shall include the text of the notice as specified in
6 subparagraph (C):

7 (A) The heading: “Downpayment.”

8 (B) A space where the actual downpayment appears.

9 (C) The following statement in at least 12-point boldface type:
10 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
11 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
12 LESS.”

13 (9) If payments, other than the downpayment, are to be made
14 before the project is completed, the details of these payments,
15 known as progress payments, shall be expressed in substantially
16 the following form, and shall include the text of the statement as
17 specified in subparagraph (C):

18 (A) A schedule of progress payments shall be preceded by the
19 heading: “Schedule of Progress Payments.”

20 (B) Each progress payment shall be stated in dollars and cents
21 and specifically reference the amount of work or services to be
22 performed and materials and equipment to be supplied.

23 (C) The section of the contract reserved for the progress
24 payments shall include the following statement in at least 12-point
25 boldface type:

26 “The schedule of progress payments must specifically describe
27 each phase of work, including the type and amount of work or
28 services scheduled to be supplied in each phase, along with the
29 amount of each proposed progress payment. IT IS AGAINST THE
30 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
31 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
32 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
33 REQUIRE A DOWNPAYMENT.”

34 (10) The contract shall address the commencement of work to
35 be performed in substantially the following form:

36 (A) A statement that describes what constitutes substantial
37 commencement of work under the contract.

38 (B) The heading: “Approximate Start Date.”

39 (C) The approximate date on which work will be commenced.

1 (11) The estimated completion date of the work shall be
2 referenced in the contract in substantially the following form:

3 (A) The heading: “Approximate Completion Date.”

4 (B) The approximate date of completion.

5 (12) If applicable, the heading: “List of Documents to be
6 Incorporated into the Contract,” followed by the list of documents
7 incorporated into the contract.

8 (13) The heading: “Note about Extra Work and Change Orders,”
9 followed by the following statement:

10 “Extra Work and Change Orders become part of the contract
11 once the order is prepared in writing and signed by the parties prior
12 to the commencement of work covered by the new change order.
13 The order must describe the scope of the extra work or change,
14 the cost to be added or subtracted from the contract, and the effect
15 the order will have on the schedule of progress payments.”

16 (e) Except as provided in paragraph (8) of subdivision (a) of
17 Section 7159.5, all of the following notices shall be provided to
18 the owner as part of the contract form as specified or, if otherwise
19 authorized under this subdivision, may be provided as an
20 attachment to the contract:

21 (1) A notice concerning commercial general liability insurance.
22 This notice may be provided as an attachment to the contract if
23 the contract includes the following statement: “A notice concerning
24 commercial general liability insurance is attached to this contract.”
25 The notice shall include the heading “Commercial General Liability
26 Insurance (CGL),” followed by whichever of the following
27 statements is both relevant and correct:

28 (A) “(The name on the license or ‘This contractor’) does not
29 carry commercial general liability insurance.”

30 (B) “(The name on the license or ‘This contractor’) carries
31 commercial general liability insurance written by (the insurance
32 company). You may call (the insurance company) at _____
33 to check the contractor’s insurance coverage.”

34 (C) “(The name on the license or ‘This contractor’) is
35 self-insured.”

36 (2) A notice concerning workers’ compensation insurance. This
37 notice may be provided as an attachment to the contract if the
38 contract includes the statement: “A notice concerning workers’
39 compensation insurance is attached to this contract.” The notice

1 shall include the heading “Workers’ Compensation Insurance”
2 followed by whichever of the following statements is correct:

3 (A) “(The name on the license or ‘This contractor’) has no
4 employees and is exempt from workers’ compensation
5 requirements.”

6 (B) “(The name on the license or ‘This contractor’) carries
7 workers’ compensation insurance for all employees.”

8 (3) A notice that provides the buyer with the following
9 information about the performance of extra or change-order work:

10 (A) A statement that the buyer may not require a contractor to
11 perform extra or change-order work without providing written
12 authorization prior to the commencement of work covered by the
13 new change order.

14 (B) A statement informing the buyer that extra work or a change
15 order is not enforceable against a buyer unless the change order
16 also identifies all of the following in writing prior to the
17 commencement of work covered by the new change order:

18 (i) The scope of work encompassed by the order.

19 (ii) The amount to be added or subtracted from the contract.

20 (iii) The effect the order will make in the progress payments or
21 the completion date.

22 (C) A statement informing the buyer that the contractor’s failure
23 to comply with the requirements of this paragraph does not
24 preclude the recovery of compensation for work performed based
25 upon legal or equitable remedies designed to prevent unjust
26 enrichment.

27 (4) A notice with the heading “Mechanics’ Lien Warning”
28 written as follows:

29 “MECHANICS’ LIEN WARNING:

30 Anyone who helps improve your property, but who is not paid,
31 may record what is called a mechanics’ lien on your property. A
32 mechanics’ lien is a claim, like a mortgage or home equity loan,
33 made against your property and recorded with the county recorder.

34 Even if you pay your contractor in full, unpaid subcontractors,
35 suppliers, and laborers who helped to improve your property may
36 record mechanics’ liens and sue you in court to foreclose the lien.
37 If a court finds the lien is valid, you could be forced to pay twice
38 or have a court officer sell your home to pay the lien. Liens can
39 also affect your credit.

1 To preserve their right to record a lien, each subcontractor and
2 material supplier must provide you with a document called a
3 '20-day Preliminary Notice.' This notice is not a lien. The purpose
4 of the notice is to let you know that the person who sends you the
5 notice has the right to record a lien on your property if he or she
6 is not paid.

7 **BE CAREFUL.** The Preliminary Notice can be sent up to 20
8 days after the subcontractor starts work or the supplier provides
9 material. This can be a big problem if you pay your contractor
10 before you have received the Preliminary Notices.

11 You will not get Preliminary Notices from your prime contractor
12 or from laborers who work on your project. The law assumes that
13 you already know they are improving your property.

14 **PROTECT YOURSELF FROM LIENS.** You can protect
15 yourself from liens by getting a list from your contractor of all the
16 subcontractors and material suppliers that work on your project.
17 Find out from your contractor when these subcontractors started
18 work and when these suppliers delivered goods or materials. Then
19 wait 20 days, paying attention to the Preliminary Notices you
20 receive.

21 **PAY WITH JOINT CHECKS.** One way to protect yourself is
22 to pay with a joint check. When your contractor tells you it is time
23 to pay for the work of a subcontractor or supplier who has provided
24 you with a Preliminary Notice, write a joint check payable to both
25 the contractor and the subcontractor or material supplier.

26 For other ways to prevent liens, visit CSLB's Internet Web site
27 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

28 **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING**
29 **A LIEN PLACED ON YOUR HOME.** This can mean that you
30 may have to pay twice, or face the forced sale of your home to pay
31 what you owe."

32 (5) The following notice shall be provided in at least 12-point
33 typeface:

34 "Information about the Contractors' State License Board (CSLB):
35 CSLB is the state consumer protection agency that licenses and
36 regulates construction contractors.

37 Contact CSLB for information about the licensed contractor you
38 are considering, including information about disclosable
39 complaints, disciplinary actions, and civil judgments that are
40 reported to CSLB.

1 Use only licensed contractors. If you file a complaint against a
2 licensed contractor within the legal deadline (usually four years),
3 CSLB has authority to investigate the complaint. If you use an
4 unlicensed contractor, CSLB may not be able to help you resolve
5 your complaint. Your only remedy may be in civil court, and you
6 may be liable for damages arising out of any injuries to the
7 unlicensed contractor or the unlicensed contractor's employees.

8 For more information:

9 Visit CSLB's Internet Web site at www.cslb.ca.gov

10 Call CSLB at 800-321-CSLB (2752)

11 Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

12 (6) (A) The notice set forth in subparagraph (B) and entitled
13 "Three-Day Right to Cancel," shall be provided to the buyer unless
14 the contract is:

15 (i) Negotiated at the contractor's place of business.

16 (ii) Subject to the "Seven-Day Right to Cancel," as set forth in
17 paragraph (7).

18 (iii) Subject to licensure under the Alarm Company Act (Chapter
19 11.6 (commencing with Section 7590)), provided the alarm
20 company licensee complies with Sections 1689.5, 1689.6, and
21 1689.7 of the Civil Code, as applicable.

22 (B) "Three-Day Right to Cancel

23 "You, the buyer, have the right to cancel this contract within
24 three business days. You may cancel by e-mailing, mailing, faxing,
25 or delivering a written notice to the contractor at the contractor's
26 place of business by midnight of the third business day after you
27 received a signed and dated copy of the contract that includes this
28 notice. Include your name, your address, and the date you received
29 the signed copy of the contract and this notice.

30 If you cancel, the contractor must return to you anything you
31 paid within 10 days of receiving the notice of cancellation. For
32 your part, you must make available to the contractor at your
33 residence, in substantially as good condition as you received them,
34 goods delivered to you under this contract or sale. Or, you may,
35 if you wish, comply with the contractor's instructions on how to
36 return the goods at the contractor's expense and risk. If you do
37 make the goods available to the contractor and the contractor does
38 not pick them up within 20 days of the date of your notice of
39 cancellation, you may keep them without any further obligation.
40 If you fail to make the goods available to the contractor, or if you

1 agree to return the goods to the contractor and fail to do so, then
2 you remain liable for performance of all obligations under the
3 contract.”

4 (C) The “Three-Day Right to Cancel” notice required by this
5 paragraph shall comply with all of the following:

6 (i) The text of the notice is at least 12-point boldface type.

7 (ii) The notice is in immediate proximity to a space reserved
8 for the owner’s signature.

9 (iii) The owner acknowledges receipt of the notice by signing
10 and dating the notice form in the signature space.

11 (iv) The notice is written in the same language, e.g., Spanish,
12 as that principally used in any oral sales presentation.

13 (v) The notice may be attached to the contract if the contract
14 includes, in at least 12-point boldface type, a checkbox with the
15 following statement: “The law requires that the contractor give
16 you a notice explaining your right to cancel. Initial the checkbox
17 if the contractor has given you a ‘Notice of the Three-Day Right
18 to Cancel.’”

19 (vi) The notice shall be accompanied by a completed form in
20 duplicate, captioned “Notice of Cancellation,” which also shall be
21 attached to the agreement or offer to purchase and be easily
22 detachable, and which shall contain the following statement written
23 in the same language, e.g., Spanish, as used in the contract:
24

25 “Notice of Cancellation”

26 /enter date of transaction/
27

28 _____
29 (Date)

30 “You may cancel this transaction, without any penalty or
31 obligation, within three business days from the above date.

32 If you cancel, any property traded in, any payments made by
33 you under the contract or sale, and any negotiable instrument
34 executed by you will be returned within 10 days following receipt
35 by the seller of your cancellation notice, and any security interest
36 arising out of the transaction will be canceled.

37 If you cancel, you must make available to the seller at your
38 residence, in substantially as good condition as when received,
39 any goods delivered to you under this contract or sale, or you may,

1 if you wish, comply with the instructions of the seller regarding
 2 the return shipment of the goods at the seller’s expense and risk.
 3 If you do make the goods available to the seller and the seller
 4 does not pick them up within 20 days of the date of your notice of
 5 cancellation, you may retain or dispose of the goods without any
 6 further obligation. If you fail to make the goods available to the
 7 seller, or if you agree to return the goods to the seller and fail to
 8 do so, then you remain liable for performance of all obligations
 9 under the contract.”

10
 11 To cancel this transaction, mail or deliver a signed and dated copy of this
 12 cancellation notice, or any other written notice, or send a telegram
 13 to _____,
 14 /name of seller/
 15 at _____
 16 /address of seller’s place of business/
 17 not later than midnight of _____.
 18 (Date)

19 I hereby cancel this transaction. _____
 20 (Date)
 21 _____
 22 (Buyer’s signature)

23
 24 (7) (A) The following notice entitled “Seven-Day Right to
 25 Cancel” shall be provided to the buyer for any contract that is
 26 written for the repair or restoration of residential premises damaged
 27 by any sudden or catastrophic event for which a state of emergency
 28 has been declared by the President of the United States or the
 29 Governor, or for which a local emergency has been declared by
 30 the executive officer or governing body of any city, county, or city
 31 and county:

32 “Seven-Day Right to Cancel
 33 You, the buyer, have the right to cancel this contract within seven
 34 business days. You may cancel by e-mailing, mailing, faxing, or
 35 delivering a written notice to the contractor at the contractor’s
 36 place of business by midnight of the seventh business day after
 37 you received a signed and dated copy of the contract that includes
 38 this notice. Include your name, your address, and the date you
 39 received the signed copy of the contract and this notice.

1 If you cancel, the contractor must return to you anything you
 2 paid within 10 days of receiving the notice of cancellation. For
 3 your part, you must make available to the contractor at your
 4 residence, in substantially as good condition as you received them,
 5 goods delivered to you under this contract or sale. Or, you may,
 6 if you wish, comply with the contractor’s instructions on how to
 7 return the goods at the contractor’s expense and risk. If you do
 8 make the goods available to the contractor and the contractor does
 9 not pick them up within 20 days of the date of your notice of
 10 cancellation, you may keep them without any further obligation.
 11 If you fail to make the goods available to the contractor, or if you
 12 agree to return the goods to the contractor and fail to do so, then
 13 you remain liable for performance of all obligations under the
 14 contract.”

15 (B) The “Seven-Day Right to Cancel” notice required by this
 16 subdivision shall comply with all of the following:

- 17 (i) The text of the notice is at least 12-point boldface type.
- 18 (ii) The notice is in immediate proximity to a space reserved
 19 for the owner’s signature.
- 20 (iii) The owner acknowledges receipt of the notice by signing
 21 and dating the notice form in the signature space.
- 22 (iv) The notice is written in the same language, e.g., Spanish,
 23 as that principally used in any oral sales presentation.
- 24 (v) The notice may be attached to the contract if the contract
 25 includes, in at least 12-point boldface type, a checkbox with the
 26 following statement: “The law requires that the contractor give
 27 you a notice explaining your right to cancel. Initial the checkbox
 28 if the contractor has given you a ‘Notice of the Seven-Day Right
 29 to Cancel.’ ”
- 30 (vi) The notice shall be accompanied by a completed form in
 31 duplicate, captioned “Notice of Cancellation,” which shall also be
 32 attached to the agreement or offer to purchase and be easily
 33 detachable, and which shall contain the following statement written
 34 in the same language, e.g., Spanish, as used in the contract:

35
 36 “Notice of Cancellation”

37 /enter date of transaction/
 38

39 _____
 40 (Date)

1 “You may cancel this transaction, without any penalty or
2 obligation, within seven business days from the above date.

3 If you cancel, any property traded in, any payments made by
4 you under the contract or sale, and any negotiable instrument
5 executed by you will be returned within 10 days following receipt
6 by the seller of your cancellation notice, and any security interest
7 arising out of the transaction will be canceled.

8 If you cancel, you must make available to the seller at your
9 residence, in substantially as good condition as when received,
10 any goods delivered to you under this contract or sale, or you may,
11 if you wish, comply with the instructions of the seller regarding
12 the return shipment of the goods at the seller’s expense and risk.

13 If you do make the goods available to the seller and the seller
14 does not pick them up within 20 days of the date of your notice of
15 cancellation, you may retain or dispose of the goods without any
16 further obligation. If you fail to make the goods available to the
17 seller, or if you agree to return the goods to the seller and fail to
18 do so, then you remain liable for performance of all obligations
19 under the contract.”

20

21 To cancel this transaction, mail or deliver a signed and dated copy of this
22 cancellation notice, or any other written notice, or send a telegram

23 to _____,

24 /name of seller/

25 a t _____

26 /address of seller’s place of business/

27 not later than midnight of _____.

28 (Date)

29 I hereby cancel this transaction. _____

30 (Date)

31 _____

32 (Buyer’s signature)

33

34 SEC. 19. Section 8698.5 of the Business and Professions Code
35 is amended to read:

36 8698.5. Funds collected pursuant to this chapter shall be paid
37 to the county and used for the sole purpose of funding enforcement
38 and training activities directly related to the structural fumigation
39 program created pursuant to Section 8698. The fees collected under
40 this chapter shall be in addition to, and shall not be used to

1 supplant, other funds provided to the county agricultural
2 commissioner pursuant to Section 12844 of the Food and
3 Agricultural Code.

4 SEC. 20. Section 14207 of the Business and Professions Code
5 is amended to read:

6 14207. (a) Subject to the limitations set forth in this chapter,
7 a person who uses a mark may file with the secretary, on a form
8 prescribed by the secretary, an application for registration of that
9 mark setting forth, but not limited to, the following information:

10 (1) The name and business address of the person applying for
11 the registration and, if that person is a corporation or partnership,
12 the state of incorporation or the state in which the partnership is
13 organized and the names of the general partners, as specified by
14 the secretary.

15 (2) The goods or services on or in connection with which the
16 mark is used, the mode or manner in which the mark is used on or
17 in connection with the goods or services, and the class in which
18 the goods or services fall.

19 (3) The date on which the mark was first used anywhere and
20 the date when it was first used in this state by the applicant or a
21 predecessor in interest.

22 (4) A statement that the applicant is the owner of the mark, that
23 the mark is in use, and that, to the knowledge of the person
24 verifying the application, no other person has registered in this
25 state or has the right to use the mark, either in the identical form
26 or in such near resemblance as to be likely, when applied to the
27 goods or services of the other person, to cause confusion, to cause
28 mistake, or to deceive.

29 (b) The secretary may also require a statement as to whether an
30 application to register the mark, or portions or a composite thereof,
31 has been filed by the applicant or a predecessor in interest with
32 the United States Patent and Trademark Office and, if so, the
33 applicant shall provide full particulars with respect thereto,
34 including the filing date and serial number of each application, the
35 status thereof, and, if any application was finally refused
36 registration or has otherwise not resulted in a registration, the
37 reasons for the refusal or result.

38 (c) The secretary may also require that a drawing of the mark,
39 complying with requirements specified by the secretary, accompany
40 the application.

1 (d) The application shall include a declaration of accuracy signed
2 by the applicant, by a member of the firm or an officer of the
3 corporation or association *making application*, or by a general
4 partner of the partnership; making application. If the person signing
5 the declaration willfully states as true in the declaration a material
6 fact that he or she knows to be false, he or she shall be subject to
7 a civil penalty of not more than ten thousand dollars (\$10,000).
8 An action for that penalty may be brought by a public prosecutor.
9 The person signing the declaration shall be informed of this penalty
10 in writing.

11 (e) The application shall be accompanied by three specimens
12 showing the mark as actually used.

13 (f) The application shall be accompanied by the application fee
14 payable to the secretary as set forth in subdivision (a) of Section
15 12193 of the Government Code.

16 (g) If the mark or any part of the mark is in any language other
17 than English, the application shall be accompanied by a certified
18 translation in English.

19 SEC. 21. Section 14245 of the Business and Professions Code
20 is amended to read:

21 14245. (a) A person who does any of the following shall be
22 subject to a civil action by the owner of the registered mark, and
23 the remedies provided in Section 14250:

24 (1) Uses, without the consent of the registrant, any reproduction,
25 counterfeit, copy, or colorable imitation of a mark registered under
26 this chapter in connection with the sale, distribution, offering for
27 sale, or advertising of goods or services on or in connection with
28 which the use is likely to cause confusion or mistake, or to deceive
29 as to the source of origin of the goods or services.

30 (2) Reproduces, counterfeits, copies, or colorably imitates the
31 mark and applies the reproduction, counterfeit, copy, or colorable
32 imitation to labels, signs, prints, packages, wrappers, receptacles,
33 or advertisements intended to be used upon or in connection with
34 the sale or other distribution in this state of goods or services. The
35 registrant shall not be entitled under this paragraph to recover
36 profits or damages unless the acts have been committed with
37 knowledge that the mark is intended to be used to cause confusion
38 or mistake, or to deceive.

39 (3) Knowingly facilitate, enable, or otherwise assist a person to
40 manufacture, use, distribute, display, or sell goods or services

1 bearing a reproduction, counterfeit, copy, or colorable imitation
2 of a mark registered under this chapter, without the consent of the
3 registrant. An action by a person is presumed to have been taken
4 knowingly following delivery to that person by personal delivery,
5 courier, or certified mail return receipt requested, of a written
6 demand to cease and desist that is accompanied by all of the
7 following:

8 (A) A copy of the certificate of registration and of a claimed
9 reproduction, counterfeit, copy, or colorable imitation of the
10 registered mark.

11 (B) A statement, made under penalty of perjury, by the owner
12 of the registered mark, by an officer of the corporation that owns
13 the registered mark, or by legal counsel for the owner of the
14 registered mark, that includes all of the following:

15 (i) The name or description of the infringer.

16 (ii) The product or service and mark being or to be infringed.

17 (iii) The dates of the infringement.

18 (iv) Other reasonable information to assist the recipient to
19 identify the infringer.

20 (4) The presumption created by paragraph (3) does not affect
21 the owner's burden of showing that there was a violation of this
22 chapter.

23 (5) Paragraph (3) is applicable to a landlord or property owner
24 who provides, rents, leases, or licenses the use of real property
25 where goods or services bearing a reproduction, counterfeit, copy,
26 or colorable imitation of a mark registered pursuant to this chapter
27 are sold, offered for sale, or advertised, where the landlord or
28 property owner had control of the property and knew, or had reason
29 to know, of the infringing activity.

30 (b) Notwithstanding any other provision of this chapter, the
31 remedies given to the owner of the right infringed pursuant to this
32 section are limited as follows:

33 (1) If an infringer or violator is engaged solely in the business
34 of printing the mark or violating matter for others and establishes
35 that he or she was an innocent infringer or innocent violator, the
36 owner of the right infringed is entitled only to an injunction against
37 future printing of the mark by the innocent infringer or innocent
38 violator.

39 (2) If the infringement complained of is contained in, or is part
40 of, paid advertising matter in a newspaper, magazine, or other

1 similar periodical, or in an electronic communication as defined
2 in subsection (12) of Section 2510 of Title 18 of the United States
3 Code, the remedies of the owner of the right infringed against the
4 publisher or distributor of the newspaper, magazine, or other
5 similar periodical or electronic communication shall be confined
6 to an injunction against the presentation of the advertising matter
7 in future issues of the newspapers, magazines, or other similar
8 periodicals or in further transmissions of the electronic
9 communication. The limitation of this subdivision shall apply only
10 to innocent infringers and innocent violators.

11 (3) Injunctive relief is not available to the owner of the right
12 infringed with respect to an issue of a newspaper, magazine, or
13 other similar periodical or electronic communication containing
14 infringing matter if restraining the dissemination of the infringing
15 matter in a particular issue of the periodical or in an electronic
16 communication would delay the delivery of the issue or
17 transmission of the electronic communication after the regular
18 time for delivery and the delay would be due to the method by
19 which publication and distribution of the periodical or transmission
20 of the electronic communication is customarily conducted in
21 accordance with sound business practice, and not to a method or
22 device adopted for the evasion of this section or to prevent or delay
23 the issuance of an injunction or restraining order with respect to
24 the infringing matter.

25 (c) An innocent infringer or innocent violator is a person whose
26 acts were committed without knowledge that the mark was intended
27 to be used to cause confusion, mistake, or to deceive.

28 SEC. 22. Section 16721.5 of the Business and Professions
29 Code is amended to read:

30 16721.5. (a) It is an unlawful trust and an unlawful restraint
31 of trade for a person to do the following:

32 (1) Grant or accept a letter of credit, or other document that
33 evidences the transfer of funds or credit, or enter into a contract
34 for the exchange of goods or services, if the letter of credit,
35 contract, or other document contains a provision that requires a
36 person to discriminate against, or to certify that he, she, or it has
37 not dealt with, another person on the basis of any characteristic
38 listed or defined in subdivision (b) or (e) of Section 51 of the Civil
39 Code, or on the basis of a person's lawful business associations.

1 (2) To refuse to grant or accept a letter of credit, or other
2 document that evidences the transfer of funds or credit, or to refuse
3 to enter into a contract for the exchange of goods or services, on
4 the ground that the letter, contract, or document does not contain
5 a discriminatory provision or certification.

6 (b) This section shall not apply to a letter of credit, contract, or
7 other document that contains a provision pertaining to a labor
8 dispute or an unfair labor practice if the other provisions of that
9 letter of credit, contract, or other document otherwise do not violate
10 this section.

11 (c) For purposes of this section, the prohibition against
12 discrimination on the basis of a person's business associations
13 does not include the requiring of association with particular
14 employment or a particular group as a prerequisite to obtaining
15 group rates or discounts on insurance, recreational activities, or
16 other similar benefits.

17 (d) For purposes of this section, "person" shall include, but not
18 be limited to, individuals, firms, partnerships, associations,
19 corporations, and governmental agencies.

20 SEC. 23. Section 17204 of the Business and Professions Code
21 is amended to read:

22 17204. Actions for Injunctions by Attorney General, District
23 Attorney, County Counsel, and City Attorneys

24 Actions for relief pursuant to this chapter shall be prosecuted
25 exclusively in a court of competent jurisdiction by the Attorney
26 General or a district attorney or by a county counsel authorized
27 by agreement with the district attorney in actions involving
28 violation of a county ordinance, or by a city attorney of a city
29 having a population in excess of 750,000, or by a city attorney in
30 a city and county or, with the consent of the district attorney, by
31 a city prosecutor in a city having a full-time city prosecutor in the
32 name of the people of the State of California upon their own
33 complaint or upon the complaint of a board, officer, person,
34 corporation, or association, or by a person who has suffered injury
35 in fact and has lost money or property as a result of the unfair
36 competition.

37 ~~SEC. 24. Section 17913 of the Business and Professions Code~~
38 ~~is amended to read:~~

1 17913. (a) The fictitious business name statement shall contain
2 all of the information required by this subdivision and shall be
3 substantially in the following form:

4
5 FICTITIOUS BUSINESS NAME STATEMENT

6 The following person (persons) is (are) doing business as

7 * _____
8 at ** _____:
9 *** _____
10 _____
11 _____
12 _____

13 ~~This business is conducted by *** _____~~

14 ~~The registrant commenced to transact business under the fictitious busi-~~
15 ~~ness name or names listed above on~~

16 ~~_____~~
~~*****~~

17 ~~I declare that all information in this statement is true and correct. (A reg-~~
18 ~~istrant who declares as true information that he or she knows to be false is~~
19 ~~guilty of a crime.)~~

20 _____ Signed _____

21 ~~Statement filed with the County Clerk of _____ County on _____~~
22 _____

23
24 ~~NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF~~
25 ~~SECTION 17920, A FICTITIOUS BUSINESS NAME~~
26 ~~STATEMENT GENERALLY EXPIRES AT THE END OF FIVE~~
27 ~~YEARS FROM THE DATE ON WHICH IT WAS FILED IN~~
28 ~~THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS~~
29 ~~PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE~~
30 ~~IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS~~
31 ~~SET FORTH IN THE STATEMENT PURSUANT TO SECTION~~
32 ~~17913 OTHER THAN A CHANGE IN THE RESIDENCE~~
33 ~~ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS~~
34 ~~BUSINESS NAME STATEMENT MUST BE FILED BEFORE~~
35 ~~THE EXPIRATION.~~
36 ~~THE FILING OF THIS STATEMENT DOES NOT OF ITSELF~~
37 ~~AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS~~
38 ~~BUSINESS NAME IN VIOLATION OF THE RIGHTS OF~~
39 ~~ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW~~

1 ~~(SEE SECTION 14411 ET SEQ., BUSINESS AND~~
2 ~~PROFESSIONS CODE).~~

3
4 ~~(b) The statement shall contain the following information set~~
5 ~~forth in the manner indicated in the form provided by subdivision~~
6 ~~(a):~~

7 ~~(1) Where the asterisk (*) appears in the form, insert the~~
8 ~~fictitious business name or names. Only those businesses operated~~
9 ~~at the same address and under the same ownership may be listed~~
10 ~~on one statement.~~

11 ~~(2) Where the two asterisks (***) appear in the form: If the~~
12 ~~registrant has a place of business in this state, insert the street~~
13 ~~address, and county, of his or her principal place of business in~~
14 ~~this state. If the registrant has no place of business in this state,~~
15 ~~insert the street address, and county, of his or her principal place~~
16 ~~of business outside this state.~~

17 ~~(3) Where the three asterisks (***) appear in the form: If the~~
18 ~~registrant is an individual, insert his or her full name and residence~~
19 ~~address. If the registrants are husband and wife, insert the full name~~
20 ~~and residence address of both the husband and the wife. If the~~
21 ~~registrant is a general partnership, copartnership, joint venture,~~
22 ~~limited liability partnership, or unincorporated association other~~
23 ~~than a partnership, insert the full name and residence address of~~
24 ~~each general partner. If the registrant is a limited partnership, insert~~
25 ~~the full name and residence address of each general partner. If the~~
26 ~~registrant is a limited liability company, insert the name and~~
27 ~~address of the limited liability company, as set out in its articles~~
28 ~~of organization on file with the California Secretary of State, and~~
29 ~~the state of organization. If the registrant is a trust, insert the full~~
30 ~~name and residence address of each trustee. If the registrant is a~~
31 ~~corporation, insert the name and address of the corporation, as set~~
32 ~~out in its articles of incorporation on file with the California~~
33 ~~Secretary of State, and the state of incorporation. If the registrants~~
34 ~~are state or local registered domestic partners, insert the full name~~
35 ~~and residence address of each domestic partner.~~

36 ~~(4) Where the four asterisks (****) appear in the form, insert~~
37 ~~whichever of the following best describes the nature of the~~
38 ~~business: (i) “an individual,” (ii) “a general partnership,” (iii) “a~~
39 ~~limited partnership,” (iv) “a limited liability company,” (v) “an~~

1 unincorporated association other than a partnership,” (vi) “a
2 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “husband and
3 wife,” (x) “joint venture,” (xi) “state or local registered domestic
4 partners,” or (xii) “a limited liability partnership.”

5 (5) ~~Where the five asterisks (*****) appear in the form, insert~~
6 ~~the date on which the registrant first commenced to transact~~
7 ~~business under the fictitious business name or names listed, if~~
8 ~~already transacting business under that name or names. If the~~
9 ~~registrant has not yet commenced to transact business under the~~
10 ~~fictitious business name or names listed, insert the statement, “Not~~
11 ~~applicable.”~~

12 (e) ~~The registrant shall declare that all of the information in the~~
13 ~~statement is true and correct. A registrant who declares as true any~~
14 ~~material matter pursuant to this section that he or she knows to be~~
15 ~~false is guilty of a misdemeanor.~~

16 ~~SEC. 25.~~

17 *SEC. 24.* Section 17915 of the Business and Professions Code
18 is amended to read:

19 17915. A fictitious business name statement shall be filed with
20 the clerk of the county in which the registrant has his or her
21 principal place of business in this state or, if the registrant has no
22 place of business in this state, with the Clerk of Sacramento
23 County. This chapter does not preclude a person from filing a
24 fictitious business name statement in a county other than that where
25 the principal place of business is located, as long as the
26 requirements of this section are also met.

27 ~~SEC. 26.~~

28 *SEC. 25.* Section 17929 of the Business and Professions Code
29 is amended to read:

30 17929. (a) The fee for filing a fictitious business name
31 statement is ten dollars (\$10) for the first fictitious business name
32 and owner and two dollars (\$2) for each additional fictitious
33 business name or owner filed on the same statement and doing
34 business at the same location. This fee covers the cost of filing
35 and indexing the statement (and any affidavit of publication), the
36 cost of furnishing one certified copy of the statement to the person
37 filing the statement, and the cost for notifying registrants of the
38 pending expiration of their fictitious business name statement.

39 (b) The fee for filing a statement of abandonment of use of a
40 fictitious business name is five dollars (\$5). This fee covers the

1 cost of filing and indexing the statement, the cost of any affidavit
2 of publication, and the cost of furnishing one certified copy of the
3 statement to the person filing the statement.

4 (c) The fee for filing a statement of withdrawal from partnership
5 operating under a fictitious business name is five dollars (\$5). This
6 fee covers the cost of filing and indexing the statement, the cost
7 of any affidavit of publication, and the cost of furnishing one
8 certified copy of the statement to the person filing the statement.

9 (d) All of the provisions of this section are subject to Section
10 54985 of the Government Code.

11 ~~SEC. 27.~~

12 *SEC. 26.* Section 19596.2 of the Business and Professions Code
13 is amended to read:

14 19596.2. (a) Notwithstanding any other provision of law and
15 except as provided in Section 19596.4, a thoroughbred racing
16 association or fair may distribute the audiovisual signal and accept
17 wagers on the results of out-of-state thoroughbred races conducted
18 in the United States during the calendar period the association or
19 fair is conducting a race meeting, including days on which there
20 is no live racing being conducted by the association or fair, without
21 the consent of the organization that represents horsemen and
22 horsewomen participating in the race meeting and without regard
23 to the amount of purses, provided that the total number of
24 thoroughbred races on which wagers are accepted statewide in a
25 given year does not exceed the total number of thoroughbred races
26 on which wagers were accepted in 1998. Further, the total number
27 of thoroughbred races imported by associations or fairs on a
28 statewide basis under this section shall not exceed 23 per day on
29 days when live thoroughbred or fair racing is being conducted in
30 the state. The limitation of 23 imported races per day does not
31 apply to any of the following:

32 (1) Races imported for wagering purposes pursuant to
33 subdivision (c).

34 (2) Races imported that are part of the race card of the Kentucky
35 Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont
36 Stakes, the Jockey Club Gold Cup, the Travers Stakes, the
37 Breeders' Cup, the Dubai Cup, or the Haskell Invitational.

38 (3) Races imported into the northern zone when there is no live
39 thoroughbred or fair racing being conducted in the northern zone.

1 (4) Races imported into the combined central and southern zones
2 when there is no live thoroughbred or fair racing being conducted
3 in the combined central and southern zones.

4 (b) A thoroughbred association or fair accepting wagers pursuant
5 to subdivision (a) shall conduct the wagering in accordance with
6 the applicable provisions of Sections 19601, 19616, 19616.1, and
7 19616.2.

8 (c) No thoroughbred association or fair may accept wagers
9 pursuant to this section on out-of-state races commencing after 7
10 p.m., Pacific Standard Time, without the consent of the harness
11 or quarter horse racing association that is then conducting a live
12 racing meeting in Orange or Sacramento County.

13 ~~SEC. 28.~~

14 *SEC. 27.* Section 56.10 of the Civil Code is amended to read:

15 56.10. (a) No provider of health care, health care service plan,
16 or contractor shall disclose medical information regarding a patient
17 of the provider of health care or an enrollee or subscriber of a
18 health care service plan without first obtaining an authorization,
19 except as provided in subdivision (b) or (c).

20 (b) A provider of health care, a health care service plan, or a
21 contractor shall disclose medical information if the disclosure is
22 compelled by any of the following:

- 23 (1) By a court pursuant to an order of that court.
- 24 (2) By a board, commission, or administrative agency for
25 purposes of adjudication pursuant to its lawful authority.
- 26 (3) By a party to a proceeding before a court or administrative
27 agency pursuant to a subpoena, subpoena duces tecum, notice to
28 appear served pursuant to Section 1987 of the Code of Civil
29 Procedure, or any provision authorizing discovery in a proceeding
30 before a court or administrative agency.
- 31 (4) By a board, commission, or administrative agency pursuant
32 to an investigative subpoena issued under Article 2 (commencing
33 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
34 2 of the Government Code.
- 35 (5) By an arbitrator or arbitration panel, when arbitration is
36 lawfully requested by either party, pursuant to a subpoena duces
37 tecum issued under Section 1282.6 of the Code of Civil Procedure,
38 or another provision authorizing discovery in a proceeding before
39 an arbitrator or arbitration panel.

1 (6) By a search warrant lawfully issued to a governmental law
2 enforcement agency.

3 (7) By the patient or the patient’s representative pursuant to
4 Chapter 1 (commencing with Section 123100) of Part 1 of Division
5 106 of the Health and Safety Code.

6 (8) By a coroner, when requested in the course of an
7 investigation by the coroner’s office for the purpose of identifying
8 the decedent or locating next of kin, or when investigating deaths
9 that may involve public health concerns, organ or tissue donation,
10 child abuse, elder abuse, suicides, poisonings, accidents, sudden
11 infant deaths, suspicious deaths, unknown deaths, or criminal
12 deaths, or when otherwise authorized by the decedent’s
13 representative. Medical information requested by the coroner under
14 this paragraph shall be limited to information regarding the patient
15 who is the decedent and who is the subject of the investigation and
16 shall be disclosed to the coroner without delay upon request.

17 (9) When otherwise specifically required by law.

18 (c) A provider of health care or a health care service plan may
19 disclose medical information as follows:

20 (1) The information may be disclosed to providers of health
21 care, health care service plans, contractors, or other health care
22 professionals or facilities for purposes of diagnosis or treatment
23 of the patient. This includes, in an emergency situation, the
24 communication of patient information by radio transmission or
25 other means between emergency medical personnel at the scene
26 of an emergency, or in an emergency medical transport vehicle,
27 and emergency medical personnel at a health facility licensed
28 pursuant to Chapter 2 (commencing with Section 1250) of Division
29 2 of the Health and Safety Code.

30 (2) The information may be disclosed to an insurer, employer,
31 health care service plan, hospital service plan, employee benefit
32 plan, governmental authority, contractor, or any other person or
33 entity responsible for paying for health care services rendered to
34 the patient, to the extent necessary to allow responsibility for
35 payment to be determined and payment to be made. If (A) the
36 patient is, by reason of a comatose or other disabling medical
37 condition, unable to consent to the disclosure of medical
38 information and (B) no other arrangements have been made to pay
39 for the health care services being rendered to the patient, the
40 information may be disclosed to a governmental authority to the

1 extent necessary to determine the patient’s eligibility for, and to
2 obtain, payment under a governmental program for health care
3 services provided to the patient. The information may also be
4 disclosed to another provider of health care or health care service
5 plan as necessary to assist the other provider or health care service
6 plan in obtaining payment for health care services rendered by that
7 provider of health care or health care service plan to the patient.

8 (3) The information may be disclosed to a person or entity that
9 provides billing, claims management, medical data processing, or
10 other administrative services for providers of health care or health
11 care service plans or for any of the persons or entities specified in
12 paragraph (2). However, information so disclosed shall not be
13 further disclosed by the recipient in a way that would violate this
14 part.

15 (4) The information may be disclosed to organized committees
16 and agents of professional societies or of medical staffs of licensed
17 hospitals, licensed health care service plans, professional standards
18 review organizations, independent medical review organizations
19 and their selected reviewers, utilization and quality control peer
20 review organizations as established by Congress in Public Law
21 97-248 in 1982, contractors, or persons or organizations insuring,
22 responsible for, or defending professional liability that a provider
23 may incur, if the committees, agents, health care service plans,
24 organizations, reviewers, contractors, or persons are engaged in
25 reviewing the competence or qualifications of health care
26 professionals or in reviewing health care services with respect to
27 medical necessity, level of care, quality of care, or justification of
28 charges.

29 (5) The information in the possession of a provider of health
30 care or health care service plan may be reviewed by a private or
31 public body responsible for licensing or accrediting the provider
32 of health care or health care service plan. However, no
33 patient-identifying medical information may be removed from the
34 premises except as expressly permitted or required elsewhere by
35 law, nor shall that information be further disclosed by the recipient
36 in a way that would violate this part.

37 (6) The information may be disclosed to the county coroner in
38 the course of an investigation by the coroner’s office when
39 requested for all purposes not included in paragraph (8) of
40 subdivision (b).

1 (7) The information may be disclosed to public agencies, clinical
2 investigators, including investigators conducting epidemiologic
3 studies, health care research organizations, and accredited public
4 or private nonprofit educational or health care institutions for bona
5 fide research purposes. However, no information so disclosed shall
6 be further disclosed by the recipient in a way that would disclose
7 the identity of a patient or violate this part.

8 (8) A provider of health care or health care service plan that has
9 created medical information as a result of employment-related
10 health care services to an employee conducted at the specific prior
11 written request and expense of the employer may disclose to the
12 employee's employer that part of the information that:

13 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
14 or challenge to which the employer and the employee are parties
15 and in which the patient has placed in issue his or her medical
16 history, mental or physical condition, or treatment, provided that
17 information may only be used or disclosed in connection with that
18 proceeding.

19 (B) Describes functional limitations of the patient that may
20 entitle the patient to leave from work for medical reasons or limit
21 the patient's fitness to perform his or her present employment,
22 provided that no statement of medical cause is included in the
23 information disclosed.

24 (9) Unless the provider of health care or health care service plan
25 is notified in writing of an agreement by the sponsor, insurer, or
26 administrator to the contrary, the information may be disclosed to
27 a sponsor, insurer, or administrator of a group or individual insured
28 or uninsured plan or policy that the patient seeks coverage by or
29 benefits from, if the information was created by the provider of
30 health care or health care service plan as the result of services
31 conducted at the specific prior written request and expense of the
32 sponsor, insurer, or administrator for the purpose of evaluating the
33 application for coverage or benefits.

34 (10) The information may be disclosed to a health care service
35 plan by providers of health care that contract with the health care
36 service plan and may be transferred among providers of health
37 care that contract with the health care service plan, for the purpose
38 of administering the health care service plan. Medical information
39 shall not otherwise be disclosed by a health care service plan except
40 in accordance with this part.

1 (11) This part does not prevent the disclosure by a provider of
2 health care or a health care service plan to an insurance institution,
3 agent, or support organization, subject to Article 6.6 (commencing
4 with Section 791) of Chapter 1 of Part 2 of Division 1 of the
5 Insurance Code, of medical information if the insurance institution,
6 agent, or support organization has complied with all of the
7 requirements for obtaining the information pursuant to Article 6.6
8 (commencing with Section 791) of Chapter 1 of Part 2 of Division
9 1 of the Insurance Code.

10 (12) The information relevant to the patient's condition, care,
11 and treatment provided may be disclosed to a probate court
12 investigator in the course of an investigation required or authorized
13 in a conservatorship proceeding under the
14 Guardianship-Conservatorship Law as defined in Section 1400 of
15 the Probate Code, or to a probate court investigator, probation
16 officer, or domestic relations investigator engaged in determining
17 the need for an initial guardianship or continuation of an existing
18 guardianship.

19 (13) The information may be disclosed to an organ procurement
20 organization or a tissue bank processing the tissue of a decedent
21 for transplantation into the body of another person, but only with
22 respect to the donating decedent, for the purpose of aiding the
23 transplant. For the purpose of this paragraph, "tissue bank" and
24 "tissue" have the same meanings as defined in Section 1635 of the
25 Health and Safety Code.

26 (14) The information may be disclosed when the disclosure is
27 otherwise specifically authorized by law, including, but not limited
28 to, the voluntary reporting, either directly or indirectly, to the
29 federal Food and Drug Administration of adverse events related
30 to drug products or medical device problems.

31 (15) Basic information, including the patient's name, city of
32 residence, age, sex, and general condition, may be disclosed to a
33 state-recognized or federally recognized disaster relief organization
34 for the purpose of responding to disaster welfare inquiries.

35 (16) The information may be disclosed to a third party for
36 purposes of encoding, encrypting, or otherwise anonymizing data.
37 However, no information so disclosed shall be further disclosed
38 by the recipient in a way that would violate this part, including the
39 unauthorized manipulation of coded or encrypted medical

1 information that reveals individually identifiable medical
2 information.

3 (17) For purposes of disease management programs and services
4 as defined in Section 1399.901 of the Health and Safety Code,
5 information may be disclosed as follows: (A) to an entity
6 contracting with a health care service plan or the health care service
7 plan’s contractors to monitor or administer care of enrollees for a
8 covered benefit, if the disease management services and care are
9 authorized by a treating physician, or (B) to a disease management
10 organization, as defined in Section 1399.900 of the Health and
11 Safety Code, that complies fully with the physician authorization
12 requirements of Section 1399.902 of the Health and Safety Code,
13 if the health care service plan or its contractor provides or has
14 provided a description of the disease management services to a
15 treating physician or to the health care service plan’s or contractor’s
16 network of physicians. This paragraph does not require physician
17 authorization for the care or treatment of the adherents of a
18 well-recognized church or religious denomination who depend
19 solely upon prayer or spiritual means for healing in the practice
20 of the religion of that church or denomination.

21 (18) The information may be disclosed, as permitted by state
22 and federal law or regulation, to a local health department for the
23 purpose of preventing or controlling disease, injury, or disability,
24 including, but not limited to, the reporting of disease, injury, vital
25 events, including, but not limited to, birth or death, and the conduct
26 of public health surveillance, public health investigations, and
27 public health interventions, as authorized or required by state or
28 federal law or regulation.

29 (19) The information may be disclosed, consistent with
30 applicable law and standards of ethical conduct, by a
31 psychotherapist, as defined in Section 1010 of the Evidence Code,
32 if the psychotherapist, in good faith, believes the disclosure is
33 necessary to prevent or lessen a serious and imminent threat to the
34 health or safety of a reasonably foreseeable victim or victims, and
35 the disclosure is made to a person or persons reasonably able to
36 prevent or lessen the threat, including the target of the threat.

37 (20) The information may be disclosed as described in Section
38 56.103.

39 (d) Except to the extent expressly authorized by a patient or
40 enrollee or subscriber or as provided by subdivisions (b) and (c),

1 a provider of health care, health care service plan, contractor, or
2 corporation and its subsidiaries and affiliates shall not intentionally
3 share, sell, use for marketing, or otherwise use medical information
4 for a purpose not necessary to provide health care services to the
5 patient.

6 (e) Except to the extent expressly authorized by a patient or
7 enrollee or subscriber or as provided by subdivisions (b) and (c),
8 a contractor or corporation and its subsidiaries and affiliates shall
9 not further disclose medical information regarding a patient of the
10 provider of health care or an enrollee or subscriber of a health care
11 service plan or insurer or self-insured employer received under
12 this section to a person or entity that is not engaged in providing
13 direct health care services to the patient or his or her provider of
14 health care or health care service plan or insurer or self-insured
15 employer.

16 ~~SEC. 29.~~

17 *SEC. 28.* Section 798.73 of the Civil Code is amended to read:

18 798.73. The management shall not require the removal of a
19 mobilehome from the park in the event of the sale of the
20 mobilehome to a third party during the term of the homeowner's
21 rental agreement or in the 60 days following the initial notice
22 required by paragraph (1) of subdivision (b) of Section 798.55.
23 However, in the event of a sale to a third party, in order to upgrade
24 the quality of the park, the management may require that a
25 mobilehome be removed from the park where:

26 (a) It is not a "mobilehome" within the meaning of Section
27 798.3.

28 (b) It is more than 20 years old, or more than 25 years old if
29 manufactured after September 15, 1971, and is 20 feet wide or
30 more, and the mobilehome does not comply with the health and
31 safety standards provided in Sections 18550, 18552, and 18605 of
32 the Health and Safety Code and the regulations established
33 thereunder, as determined following an inspection by the
34 appropriate enforcement agency, as defined in Section 18207 of
35 the Health and Safety Code.

36 (c) The mobilehome is more than 17 years old, or more than 25
37 years old if manufactured after September 15, 1971, and is less
38 than 20 feet wide, and the mobilehome does not comply with the
39 construction and safety standards under Sections 18550, 18552,
40 and 18605 of the Health and Safety Code and the regulations

1 established thereunder, as determined following an inspection by
2 the appropriate enforcement agency, as defined in Section 18207
3 of the Health and Safety Code.

4 (d) It is in a significantly rundown condition or in disrepair, as
5 determined by the general condition of the mobilehome and its
6 acceptability to the health and safety of the occupants and to the
7 public, exclusive of its age. The management shall use reasonable
8 discretion in determining the general condition of the mobilehome
9 and its accessory structures. The management shall bear the burden
10 of demonstrating that the mobilehome is in a significantly rundown
11 condition or in disrepair. The management of the park may not
12 require repairs or improvements to the park space or property
13 owned by the management, except for damage caused by the
14 actions or negligence of the homeowner or an agent of the
15 homeowner.

16 (e) The management shall not require a mobilehome to be
17 removed from the park, pursuant to this section, unless the
18 management has provided to the homeowner notice particularly
19 specifying the condition that permits the removal of the
20 mobilehome.

21 ~~SEC. 30.~~

22 *SEC. 29.* Section 1185 of the Civil Code is amended to read:

23 1185. (a) The acknowledgment of an instrument shall not be
24 taken unless the officer taking it has satisfactory evidence that the
25 person making the acknowledgment is the individual who is
26 described in and who executed the instrument.

27 (b) For purposes of this section, “satisfactory evidence” means
28 the absence of information, evidence, or other circumstances that
29 would lead a reasonable person to believe that the person making
30 the acknowledgment is not the individual he or she claims to be
31 and any one of the following:

32 (1) (A) The oath or affirmation of a credible witness personally
33 known to the officer, whose identity is proven to the officer upon
34 presentation of a document satisfying the requirements of paragraph
35 (3) or (4), that the person making the acknowledgment is personally
36 known to the witness and that each of the following are true:

37 (i) The person making the acknowledgment is the person named
38 in the document.

39 (ii) The person making the acknowledgment is personally known
40 to the witness.

1 (iii) That it is the reasonable belief of the witness that the
2 circumstances of the person making the acknowledgment are such
3 that it would be very difficult or impossible for that person to
4 obtain another form of identification.

5 (iv) The person making the acknowledgment does not possess
6 any of the identification documents named in paragraphs (3) and
7 (4).

8 (v) The witness does not have a financial interest in the
9 document being acknowledged and is not named in the document.

10 (B) A notary public who violates this section by failing to obtain
11 the satisfactory evidence required by subparagraph (A) shall be
12 subject to a civil penalty not exceeding ten thousand dollars
13 (\$10,000). An action to impose this civil penalty may be brought
14 by the Secretary of State in an administrative proceeding or a public
15 prosecutor in superior court, and shall be enforced as a civil
16 judgment. A public prosecutor shall inform the secretary of any
17 civil penalty imposed under this subparagraph.

18 (2) The oath or affirmation under penalty of perjury of two
19 credible witnesses, whose identities are proven to the officer upon
20 the presentation of a document satisfying the requirements of
21 paragraph (3) or (4), that each statement in paragraph (1) is true.

22 (3) Reasonable reliance on the presentation to the officer of any
23 one of the following, if the document is current or has been issued
24 within five years:

25 (A) An identification card or driver's license issued by the
26 Department of Motor Vehicles.

27 (B) A passport issued by the Department of State of the United
28 States.

29 (4) Reasonable reliance on the presentation of any one of the
30 following, provided that a document specified in subparagraphs
31 (A) to (E), inclusive, shall either be current or have been issued
32 within five years and shall contain a photograph and description
33 of the person named on it, shall be signed by the person, shall bear
34 a serial or other identifying number, and, in the event that the
35 document is a passport, shall have been stamped by the United
36 States Citizenship and Immigration Services of the Department of
37 Homeland Security:

38 (A) A passport issued by a foreign government.

1 (B) A driver's license issued by a state other than California or
2 by a Canadian or Mexican public agency authorized to issue
3 driver's licenses.

4 (C) An identification card issued by a state other than California.

5 (D) An identification card issued by any branch of the Armed
6 Forces of the United States.

7 (E) An inmate identification card issued on or after January 1,
8 1988, by the Department of Corrections and Rehabilitation, if the
9 inmate is in custody.

10 (F) An inmate identification card issued prior to January 1,
11 1988, by the Department of Corrections and Rehabilitation, if the
12 inmate is in custody.

13 (c) An officer who has taken an acknowledgment pursuant to
14 this section shall be presumed to have operated in accordance with
15 the provisions of law.

16 (d) A party who files an action for damages based on the failure
17 of the officer to establish the proper identity of the person making
18 the acknowledgment shall have the burden of proof in establishing
19 the negligence or misconduct of the officer.

20 (e) A person convicted of perjury under this section shall forfeit
21 any financial interest in the document.

22 ~~SEC. 31.~~

23 *SEC. 30.* Section 1789.13 of the Civil Code is amended to read:

24 1789.13. A credit services organization and its salespersons,
25 agents, representatives, and independent contractors who sell or
26 attempt to sell the services of a credit services organization shall
27 not do any of the following:

28 (a) Charge or receive any money or other valuable consideration
29 prior to full and complete performance of the services the credit
30 services organization has agreed to perform for or on behalf of the
31 buyer.

32 (b) Fail to perform the agreed services within six months
33 following the date the buyer signs the contract for those services.

34 (c) Charge or receive any money or other valuable consideration
35 for referral of the buyer to a retail seller or other credit grantor
36 who will or may extend credit to the buyer, if either of the
37 following apply:

38 (1) The credit that is or will be extended to the buyer (A) is
39 upon substantially the same terms as those available to the general
40 public or (B) is upon substantially the same terms that would have

1 been extended to the buyer without the assistance of the credit
2 services organization.

3 (2) The money or consideration is paid by the credit grantor or
4 is derived from the buyer's payments to the credit grantor for costs,
5 fees, finance charges, or principal.

6 (d) Make, or counsel or advise a buyer to make, a statement that
7 is untrue or misleading and that is known, or that by the exercise
8 of reasonable care should be known, to be untrue or misleading,
9 to a consumer credit reporting agency or to a person who has
10 extended credit to a buyer or to whom a buyer is applying for an
11 extension of credit, such as statements concerning a buyer's
12 identification, home address, creditworthiness, credit standing, or
13 credit capacity.

14 (e) Remove, or assist or advise the buyer to remove, adverse
15 information from the buyer's credit record which is accurate and
16 not obsolete.

17 (f) Create, or assist or advise the buyer to create, a new credit
18 record by using a different name, address, social security number,
19 or employee identification number.

20 (g) Make or use untrue or misleading representations in the offer
21 or sale of the services of a credit services organization, including
22 either of the following:

23 (1) Guaranteeing or otherwise stating that the organization is
24 able to delete an adverse credit history, unless the representation
25 clearly discloses, in a manner equally as conspicuous as the
26 guarantee, that this can be done only if the credit history is
27 inaccurate or obsolete and is not claimed to be accurate by the
28 creditor who submitted the information.

29 (2) Guaranteeing or otherwise stating that the organization is
30 able to obtain an extension of credit, regardless of the buyer's
31 previous credit problems or credit history, unless the representation
32 clearly discloses, in a manner equally as conspicuous as the
33 guarantee, the eligibility requirements for obtaining an extension
34 of credit.

35 (h) Engage, directly or indirectly, in an act, practice, or course
36 of business that operates or would operate as a fraud or deception
37 upon a person in connection with the offer or sale of the services
38 of a credit services organization.

- 1 (i) Advertise or cause to be advertised, in any manner, the
2 services of the credit services organization, without being registered
3 with the Department of Justice.
- 4 (j) Fail to maintain an agent for service of process in this state.
- 5 (k) Transfer or assign its certificate of registration.
- 6 (l) Submit a buyer's dispute to a consumer credit reporting
7 agency without the buyer's knowledge.
- 8 (m) Use a consumer credit reporting agency's telephone system
9 or toll-free telephone number to represent the caller as the buyer
10 in submitting a dispute of a buyer or requesting disclosure without
11 prior authorization of the buyer.
- 12 (n) Directly or indirectly extend credit to a buyer.
- 13 (o) Refer a buyer to a credit grantor that is related to the credit
14 services organization by a common ownership, management, or
15 control, including a common owner, director, or officer.
- 16 (p) Refer a buyer to a credit grantor for which the credit services
17 organization provides, or arranges for a third party to provide,
18 services related to the extension of credit such as underwriting,
19 billing, payment processing, or debt collection.
- 20 (q) Provide a credit grantor with an assurance that a portion of
21 an extension of credit to a buyer referred by the credit services
22 organization will be repaid, including providing a guaranty, letter
23 of credit, or agreement to acquire a part of the credit grantor's
24 financial interest in the extension of credit.
- 25 (r) Use a scheme, device, or contrivance to evade the
26 prohibitions contained in this section.

27 ~~SEC. 32.~~

28 *SEC. 31.* Section 1936 of the Civil Code is amended to read:

29 1936. (a) For the purpose of this section, the following
30 definitions shall apply:

31 (1) "Rental company" means a person or entity in the business
32 of renting passenger vehicles to the public.

33 (2) "Renter" means a person in any manner obligated under a
34 contract for the lease or hire of a passenger vehicle from a rental
35 company for a period of less than 30 days.

36 (3) "Authorized driver" means (A) the renter, (B) the renter's
37 spouse if that person is a licensed driver and satisfies the rental
38 company's minimum age requirement, (C) the renter's employer
39 or coworker if he or she is engaged in business activity with the
40 renter, is a licensed driver, and satisfies the rental company's

1 minimum age requirement, and (D) a person expressly listed by
2 the rental company on the renter’s contract as an authorized driver.

3 (4) (A) “Customer facility charge” means a fee required by an
4 airport to be collected by a rental company from a renter for any
5 of the following purposes:

6 (i) To finance, design, and construct consolidated airport car
7 rental facilities.

8 (ii) To finance, design, construct, and provide common use
9 transportation systems that move passengers between airport
10 terminals and those consolidated car rental facilities.

11 (B) The aggregate amount to be collected shall not exceed the
12 reasonable costs, as determined by an independent audit paid for
13 by the airport, to finance, design, and construct those facilities.
14 Copies of the audit shall be provided to the Assembly and Senate
15 Committees on Judiciary, the Assembly Committee on
16 Transportation, and the Senate Committee on Transportation and
17 Housing. In the case of a transportation system, the audit also shall
18 consider the reasonable costs of providing the transit system or
19 busing network. At the Burbank Airport, and at all other airports,
20 the fees designated as a customer facility charge shall not be used
21 to pay for terminal expansion, gate expansion, runway expansion,
22 changes in hours of operation, or changes in the number of flights
23 arriving or departing from the airport.

24 (C) The authorization given pursuant to this section for an airport
25 to impose a customer facility charge shall become inoperative
26 when the bonds used for financing are paid.

27 (5) “Damage waiver” means a rental company’s agreement not
28 to hold a renter liable for all or any portion of any damage or loss
29 related to the rented vehicle, any loss of use of the rented vehicle,
30 or any storage, impound, towing, or administrative charges.

31 (6) “Electronic surveillance technology” means a technological
32 method or system used to observe, monitor, or collect information,
33 including telematics, Global Positioning System (GPS), wireless
34 technology, or location-based technologies. “Electronic
35 surveillance technology” does not include event data recorders
36 (EDR), sensing and diagnostic modules (SDM), or other systems
37 that are used either:

38 (A) For the purpose of identifying, diagnosing, or monitoring
39 functions related to the potential need to repair, service, or perform
40 maintenance on the rental vehicle.

1 (B) As part of the vehicle’s airbag sensing and diagnostic system
2 in order to capture safety systems-related data for retrieval after a
3 crash has occurred or in the event that the collision sensors are
4 activated to prepare the decisionmaking computer to make the
5 determination to deploy or not to deploy the airbag.

6 (7) “Estimated time for replacement” means the number of hours
7 of labor, or fraction thereof, needed to replace damaged vehicle
8 parts as set forth in collision damage estimating guides generally
9 used in the vehicle repair business and commonly known as “crash
10 books.”

11 (8) “Estimated time for repair” means a good faith estimate of
12 the reasonable number of hours of labor, or fraction thereof, needed
13 to repair damaged vehicle parts.

14 (9) “Membership program” means a service offered by a rental
15 company that permits customers to bypass the rental counter and
16 go directly to the car previously reserved. A membership program
17 shall meet all of the following requirements:

18 (A) The renter initiates enrollment by completing an application
19 on which the renter can specify a preference for type of vehicle
20 and acceptance or declination of optional services.

21 (B) The rental company fully discloses, prior to the enrollee’s
22 first rental as a participant in the program, all terms and conditions
23 of the rental agreement as well as all required disclosures.

24 (C) The renter may terminate enrollment at any time.

25 (D) The rental company fully explains to the renter that
26 designated preferences, as well as acceptance or declination of
27 optional services, may be changed by the renter at any time for
28 the next and future rentals.

29 (E) An employee designated to receive the form specified in
30 subparagraph (C) of paragraph (1) of subdivision (t) is present at
31 the lot where the renter takes possession of the car, to receive any
32 change in the rental agreement from the renter.

33 (10) “Passenger vehicle” means a passenger vehicle as defined
34 in Section 465 of the Vehicle Code.

35 (b) Except as limited by subdivision (c), a rental company and
36 a renter may agree that the renter will be responsible for no more
37 than all of the following:

38 (1) Physical or mechanical damage to the rented vehicle up to
39 its fair market value, as determined in the customary market for

1 the sale of that vehicle, resulting from collision regardless of the
2 cause of the damage.

3 (2) Loss due to theft of the rented vehicle up to its fair market
4 value, as determined in the customary market for the sale of that
5 vehicle, provided that the rental company establishes by clear and
6 convincing evidence that the renter or the authorized driver failed
7 to exercise ordinary care while in possession of the vehicle. In
8 addition, the renter shall be presumed to have no liability for any
9 loss due to theft if (A) an authorized driver has possession of the
10 ignition key furnished by the rental company or an authorized
11 driver establishes that the ignition key furnished by the rental
12 company was not in the vehicle at the time of the theft, and (B) an
13 authorized driver files an official report of the theft with the police
14 or other law enforcement agency within 24 hours of learning of
15 the theft and reasonably cooperates with the rental company and
16 the police or other law enforcement agency in providing
17 information concerning the theft. The presumption set forth in this
18 paragraph is a presumption affecting the burden of proof which
19 the rental company may rebut by establishing that an authorized
20 driver committed, or aided and abetted the commission of, the
21 theft.

22 (3) Physical damage to the rented vehicle up to its fair market
23 value, as determined in the customary market for the sale of that
24 vehicle, resulting from vandalism occurring after, or in connection
25 with, the theft of the rented vehicle. However, the renter shall have
26 no liability for any damage due to vandalism if the renter would
27 have no liability for theft pursuant to paragraph (2).

28 (4) Physical damage to the rented vehicle up to a total of five
29 hundred dollars (\$500) resulting from vandalism unrelated to the
30 theft of the rented vehicle.

31 (5) Actual charges for towing, storage, and impound fees paid
32 by the rental company if the renter is liable for damage or loss.

33 (6) An administrative charge, which shall include the cost of
34 appraisal and all other costs and expenses incident to the damage,
35 loss, repair, or replacement of the rented vehicle.

36 (c) The total amount of the renter's liability to the rental
37 company resulting from damage to the rented vehicle shall not
38 exceed the sum of the following:

39 (1) The estimated cost of parts which the rental company would
40 have to pay to replace damaged vehicle parts. All discounts and

1 price reductions or adjustments that are or will be received by the
2 rental company shall be subtracted from the estimate to the extent
3 not already incorporated in the estimate, or otherwise promptly
4 credited or refunded to the renter.

5 (2) The estimated cost of labor to replace damaged vehicle parts,
6 which shall not exceed the product of (A) the rate for labor usually
7 paid by the rental company to replace vehicle parts of the type that
8 were damaged and (B) the estimated time for replacement. All
9 discounts and price reductions or adjustments that are or will be
10 received by the rental company shall be subtracted from the
11 estimate to the extent not already incorporated in the estimate, or
12 otherwise promptly credited or refunded to the renter.

13 (3) (A) The estimated cost of labor to repair damaged vehicle
14 parts, which may not exceed the lesser of the following:

15 (i) The product of the rate for labor usually paid by the rental
16 company to repair vehicle parts of the type that were damaged and
17 the estimated time for repair.

18 (ii) The sum of the estimated labor and parts costs determined
19 under paragraphs (1) and (2) to replace the same vehicle parts.

20 (B) All discounts and price reductions or adjustments that are
21 or will be received by the rental company shall be subtracted from
22 the estimate to the extent not already incorporated in the estimate,
23 or otherwise promptly credited or refunded to the renter.

24 (4) For the purpose of converting the estimated time for repair
25 into the same units of time in which the rental rate is expressed, a
26 day shall be deemed to consist of eight hours.

27 (5) Actual charges for towing, storage, and impound fees paid
28 by the rental company.

29 (6) The administrative charge described in paragraph (6) of
30 subdivision (b) may not exceed (A) fifty dollars (\$50) if the total
31 estimated cost for parts and labor is more than one hundred dollars
32 (\$100) up to and including five hundred dollars (\$500), (B) one
33 hundred dollars (\$100) if the total estimated cost for parts and
34 labor exceeds five hundred dollars (\$500) up to and including one
35 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
36 dollars (\$150) if the total estimated cost for parts and labor exceeds
37 one thousand five hundred dollars (\$1,500). An administrative
38 charge shall not be imposed if the total estimated cost of parts and
39 labor is one hundred dollars (\$100) or less.

1 (d) (1) The total amount of an authorized driver's liability to
2 the rental company, if any, for damage occurring during the
3 authorized driver's operation of the rented vehicle shall not exceed
4 the amount of the renter's liability under subdivision (c).

5 (2) A rental company shall not recover from the renter or other
6 authorized driver an amount exceeding the renter's liability under
7 subdivision (c).

8 (3) A claim against a renter resulting from damage or loss,
9 excluding loss of use, to a rental vehicle shall be reasonably and
10 rationally related to the actual loss incurred. A rental company
11 shall mitigate damages where possible and shall not assert or collect
12 a claim for physical damage which exceeds the actual costs of the
13 repairs performed or the estimated cost of repairs, if the rental
14 company chooses not to repair the vehicle, including all discounts
15 and price reductions. However, if the vehicle is a total loss vehicle,
16 the claim shall not exceed the total loss vehicle value established
17 in accordance with procedures that are customarily used by
18 insurance companies when paying claims on total loss vehicles,
19 less the proceeds from salvaging the vehicle, if those proceeds are
20 retained by the rental company.

21 (4) If insurance coverage exists under the renter's applicable
22 personal or business insurance policy and the coverage is confirmed
23 during regular business hours, the renter may require that the rental
24 company submit any claims to the renter's applicable personal or
25 business insurance carrier. The rental company shall not make any
26 written or oral representations that it will not present claims or
27 negotiate with the renter's insurance carrier. For purposes of this
28 paragraph, confirmation of coverage includes telephone
29 confirmation from insurance company representatives during
30 regular business hours. Upon request of the renter and after
31 confirmation of coverage, the amount of claim shall be resolved
32 between the insurance carrier and the rental company. The renter
33 shall remain responsible for payment to the rental car company
34 for any loss sustained that the renter's applicable personal or
35 business insurance policy does not cover.

36 (5) A rental company shall not recover from the renter or other
37 authorized driver for an item described in subdivision (b) to the
38 extent the rental company obtains recovery from another person.

39 (6) This section applies only to the maximum liability of a renter
40 or other authorized driver to the rental company resulting from

1 damage to the rented vehicle and not to the liability of another
2 person.

3 (e) (1) Except as provided in subdivision (f), a damage waiver
4 shall provide or, if not expressly stated in writing, shall be deemed
5 to provide that the renter has no liability for a damage, loss, loss
6 of use, or a cost or expense incident thereto.

7 (2) Except as provided in subdivision (f), every limitation,
8 exception, or exclusion to a damage waiver is void and
9 unenforceable.

10 (f) A rental company may provide in the rental contract that a
11 damage waiver does not apply under any of the following
12 circumstances:

13 (1) Damage or loss results from an authorized driver's (A)
14 intentional, willful, wanton, or reckless conduct, (B) operation of
15 the vehicle under the influence of drugs or alcohol in violation of
16 Section 23152 of the Vehicle Code, (C) towing or pushing
17 anything, or (D) operation of the vehicle on an unpaved road if
18 the damage or loss is a direct result of the road or driving
19 conditions.

20 (2) Damage or loss occurs while the vehicle is (A) used for
21 commercial hire, (B) used in connection with conduct that could
22 be properly charged as a felony, (C) involved in a speed test or
23 contest or in driver training activity, (D) operated by a person other
24 than an authorized driver, or (E) operated outside the United States.

25 (3) An authorized driver who has (A) provided fraudulent
26 information to the rental company, or (B) provided false
27 information and the rental company would not have rented the
28 vehicle if it had instead received true information.

29 (g) (1) A rental company that offers or provides a damage
30 waiver for any consideration in addition to the rental rate shall
31 clearly and conspicuously disclose the following information in
32 the rental contract or holder in which the contract is placed and,
33 also, in signs posted at the place, such as the counter, where the
34 renter signs the rental contract, and, for renters who are enrolled
35 in the rental company's membership program, in a sign that shall
36 be posted in a location clearly visible to those renters as they enter
37 the location where their reserved rental cars are parked or near the
38 exit of the bus or other conveyance that transports the enrollee to
39 a reserved car: (A) the nature of the renter's liability, e.g., liability
40 for all collision damage regardless of cause, (B) the extent of the

1 renter’s liability, e.g., liability for damage or loss up to a specified
 2 amount, (C) the renter’s personal insurance policy or the credit
 3 card used to pay for the car rental transaction may provide coverage
 4 for all or a portion of the renter’s potential liability, (D) the renter
 5 should consult with his or her insurer to determine the scope of
 6 insurance coverage, including the amount of the deductible, if any,
 7 for which the renter is obligated, (E) the renter may purchase an
 8 optional damage waiver to cover all liability, subject to whatever
 9 exceptions the rental company expressly lists that are permitted
 10 under subdivision (f), and (F) the range of charges for the damage
 11 waiver.

12 (2) In addition to the requirements of paragraph (1), a rental
 13 company that offers or provides a damage waiver shall orally
 14 disclose to all renters, except those who are participants in the
 15 rental company’s membership program, that the damage waiver
 16 may be duplicative of coverage that the customer maintains under
 17 his or her own policy of motor vehicle insurance. The renter’s
 18 receipt of the oral disclosure shall be demonstrated through the
 19 renter’s acknowledging receipt of the oral disclosure near that part
 20 of the contract where the renter indicates, by the renter’s own
 21 initials, his or her acceptance or declination of the damage waiver.
 22 Adjacent to that same part, the contract also shall state that the
 23 damage waiver is optional. Further, the contract for these renters
 24 shall include a clear and conspicuous written disclosure that the
 25 damage waiver may be duplicative of coverage that the customer
 26 maintains under his or her own policy of motor vehicle insurance.

27 (3) The following is an example, for purposes of illustration
 28 and not limitation, of a notice fulfilling the requirements of
 29 paragraph (1) for a rental company that imposes liability on the
 30 renter for collision damage to the full value of the vehicle:

31

32 NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
 33 AND OPTIONAL DAMAGE WAIVER

34

35 You are responsible for all collision damage to the rented vehicle
 36 even if someone else caused it or the cause is unknown. You are
 37 responsible for the cost of repair up to the value of the vehicle,
 38 and towing, storage, and impound fees.

39 Your own insurance, or the issuer of the credit card you use to
 40 pay for the car rental transaction, may cover all or part of your

1 financial responsibility for the rented vehicle. You should check
2 with your insurance company, or credit card issuer, to find out
3 about your coverage and the amount of the deductible, if any, for
4 which you may be liable.

5 Further, if you use a credit card that provides coverage for your
6 potential liability, you should check with the issuer to determine
7 if you must first exhaust the coverage limits of your own insurance
8 before the credit card coverage applies.

9 The rental company will not hold you responsible if you buy a
10 damage waiver. But a damage waiver will not protect you if (list
11 exceptions).

12 (A) When the above notice is printed in the rental contract or
13 holder in which the contract is placed, the following shall be printed
14 immediately following the notice:

15 “The cost of an optional damage waiver is \$_____ for every (day
16 or week).”

17 (B) When the above notice appears on a sign, the following
18 shall appear immediately adjacent to the notice:

19 “The cost of an optional damage waiver is \$_____ to \$_____ for
20 every (day or week), depending upon the vehicle rented.”

21 (h) Notwithstanding any other provision of law, a rental
22 company may sell a damage waiver subject to the following rate
23 limitations for each full or partial 24-hour rental day for the damage
24 waiver.

25 (1) For rental vehicles that the rental company designates as an
26 “economy car,” “subcompact car,” “compact car,” or another term
27 having similar meaning when offered for rental, or another vehicle
28 having a manufacturer’s suggested retail price of nineteen thousand
29 dollars (\$19,000) or less, the rate shall not exceed nine dollars
30 (\$9).

31 (2) For rental vehicles that have a manufacturer’s suggested
32 retail price from nineteen thousand one dollars (\$19,001) to
33 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
34 inclusive, and that are also either vehicles of next year’s model,
35 or not older than the previous year’s model, the rate may not exceed
36 fifteen dollars (\$15). For those rental vehicles older than the
37 previous year’s model year, the rate shall not exceed nine dollars
38 (\$9).

39 (i) On or after January 1, 2003, the manufacturer’s suggested
40 retail prices described in subdivision (h) shall be adjusted annually

1 to reflect changes from the previous year in the Consumer Price
2 Index. For the purposes of this section, “Consumer Price Index”
3 means the United States Consumer Price Index for All Urban
4 Consumers, for all items.

5 (j) A rental company that disseminates in this state an
6 advertisement containing a rental rate shall include in that
7 advertisement a clearly readable statement of the charge for a
8 damage waiver and a statement that a damage waiver is optional.

9 (k) (1) A rental company shall not require the purchase of a
10 damage waiver, optional insurance, or another optional good or
11 service.

12 (2) A rental company shall not engage in any unfair, deceptive,
13 or coercive conduct to induce a renter to purchase the damage
14 waiver, optional insurance, or another optional good or service,
15 including conduct such as, but not limited to, refusing to honor
16 the renter’s reservation, limiting the availability of vehicles,
17 requiring a deposit, or debiting or blocking the renter’s credit card
18 account for a sum equivalent to a deposit if the renter declines to
19 purchase the damage waiver, optional insurance, or another
20 optional good or service.

21 (l) (1) In the absence of express permission granted by the
22 renter subsequent to damage to, or loss of, the vehicle, a rental
23 company shall not seek to recover any portion of a claim arising
24 out of damage to, or loss of, the rented vehicle by processing a
25 credit card charge or causing a debit or block to be placed on the
26 renter’s credit card account.

27 (2) A rental company shall not engage in any unfair, deceptive,
28 or coercive tactics in attempting to recover or in recovering on any
29 claim arising out of damage to, or loss of, the rented vehicle.

30 (m) (1) A customer facility charge may be collected by a rental
31 company under the following circumstances:

32 (A) Collection of the fee by the rental company is required by
33 an airport operated by a city, a county, a city and county, a joint
34 powers authority, or a special district.

35 (B) The fee is calculated on a per-contract basis.

36 (C) The fee is a user fee, not a tax imposed upon real property
37 or an incidence of property ownership under Article XIII D of the
38 California Constitution.

39 (D) Except as otherwise provided in subparagraph (E), the fee
40 shall be ten dollars (\$10) per contract.

1 (E) If the fee imposed by the airport is for both a consolidated
2 rental car facility and a common-use transportation system, the
3 fee collected from customers of on-airport rental car companies
4 shall be ten dollars (\$10), but the fee imposed on customers of
5 off-airport rental car companies who are transported on the
6 common-use transportation system is proportionate to the costs of
7 the common-use transportation system only. The fee is uniformly
8 applied to each class of on-airport or off-airport customers,
9 provided the airport requires off-airport customers to use the
10 common-use transportation system.

11 (F) Revenues collected from the fee do not exceed the reasonable
12 costs of financing, designing, constructing, or operating the facility
13 or services and shall not be used for any other purpose.

14 (G) The fee is separately identified on the rental agreement.

15 (H) This paragraph does not apply to airports the fees of which
16 are governed by Section 50474.1 of the Government Code or
17 Section 57.5 of the San Diego Unified Port District Act.

18 (2) Notwithstanding any other provision of law, including, but
19 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
20 (commencing with Section 7280), inclusive, of Division 2 of the
21 Revenue and Taxation Code, the fees collected pursuant to this
22 section, or another law whereby a local agency operating an airport
23 requires a rental car company to collect a facility financing fee
24 from its customers, are not subject to sales, use, or transaction
25 taxes.

26 (n) (1) A rental company shall only advertise, quote, and charge
27 a rental rate that includes the entire amount except taxes, a
28 customer facility charge, if any, and a mileage charge, if any, which
29 a renter must pay to hire or lease the vehicle for the period of time
30 to which the rental rate applies. A rental company shall not charge
31 in addition to the rental rate, taxes, a customer facility charge, if
32 any, and a mileage charge, if any, any fee that is required to be
33 paid by the renter as a condition of hiring or leasing the vehicle,
34 including, but not limited to, required fuel or airport surcharges
35 other than customer facility charges, nor a fee for transporting the
36 renter to the location where the rented vehicle will be delivered to
37 the renter.

38 (2) In addition to the rental rate, taxes, customer facility charges,
39 if any, and mileage charges, if any, a rental company may charge
40 for an item or service provided in connection with a particular

1 rental transaction if the renter could have avoided incurring the
2 charge by choosing not to obtain or utilize the optional item or
3 service. Items and services for which the rental company may
4 impose an additional charge include, but are not limited to, optional
5 insurance and accessories requested by the renter, service charges
6 incident to the renter's optional return of the vehicle to a location
7 other than the location where the vehicle was hired or leased, and
8 charges for refueling the vehicle at the conclusion of the rental
9 transaction in the event the renter did not return the vehicle with
10 as much fuel as was in the fuel tank at the beginning of the rental.
11 A rental company also may impose an additional charge based on
12 reasonable age criteria established by the rental company.

13 (3) A rental company shall not charge a fee for authorized
14 drivers in addition to the rental charge for an individual renter.

15 (4) If a rental company states a rental rate in print advertisement
16 or in a telephonic, in-person, or computer-transmitted quotation,
17 the rental company shall disclose clearly in that advertisement or
18 quotation the terms of mileage conditions relating to the advertised
19 or quoted rental rate, including, but not limited to, to the extent
20 applicable, the amount of mileage and gas charges, the number of
21 miles for which no charges will be imposed, and a description of
22 geographic driving limitations within the United States and Canada.

23 (5) (A) When a rental rate is stated in an advertisement,
24 quotation, or reservation in connection with a car rental at an airport
25 where a customer facility charge is imposed, the rental company
26 shall disclose clearly the existence and amount of the customer
27 facility charge. For purposes of this subparagraph, advertisements
28 include radio, television, other electronic media, and print
29 advertisements. For purposes of this subparagraph, quotations and
30 reservations include those that are telephonic, in-person, and
31 computer-transmitted. If the rate advertisement is intended to
32 include transactions at more than one airport imposing a customer
33 facility charge, a range of fees may be stated in the advertisement.
34 However, all rate advertisements that include car rentals at airport
35 destinations shall clearly and conspicuously include a toll-free
36 telephone number whereby a customer can be told the specific
37 amount of the customer facility charge to which the customer will
38 be obligated.

39 (B) If a person or entity other than a rental car company,
40 including a passenger carrier or a seller of travel services, advertises

1 or quotes a rate for a car rental at an airport where a customer
2 facility charge is imposed, that person or entity shall, provided
3 that he, she, or it is provided with information about the existence
4 and amount of the fee, to the extent not specifically prohibited by
5 federal law, clearly disclose the existence and amount of the fee
6 in any telephonic, in-person, or computer-transmitted quotation at
7 the time of making an initial quotation of a rental rate and at the
8 time of making a reservation of a rental car. If a rental car company
9 provides the person or entity with rate and customer facility charge
10 information, the rental car company is not responsible for the
11 failure of that person or entity to comply with this subparagraph
12 when quoting or confirming a rate to a third person or entity.

13 (6) If a rental company delivers a vehicle to a renter at a location
14 other than the location where the rental company normally carries
15 on its business, the rental company shall not charge the renter an
16 amount for the rental for the period before the delivery of the
17 vehicle. If a rental company picks up a rented vehicle from a renter
18 at a location other than the location where the rental company
19 normally carries on its business, the rental company shall not
20 charge the renter an amount for the rental for the period after the
21 renter notifies the rental company to pick up the vehicle.

22 (o) A rental company shall not use, access, or obtain any
23 information relating to the renter's use of the rental vehicle that
24 was obtained using electronic surveillance technology, except in
25 the following circumstances:

26 (1) (A) When the equipment is used by the rental company
27 only for the purpose of locating a stolen, abandoned, or missing
28 rental vehicle after one of the following:

29 (i) The renter or law enforcement has informed the rental
30 company that the vehicle has been stolen, abandoned, or missing.

31 (ii) The rental vehicle has not been returned following one week
32 after the contracted return date, or by one week following the end
33 of an extension of that return date.

34 (iii) The rental company discovers the rental vehicle has been
35 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
36 to law enforcement by filing a stolen vehicle report, unless law
37 enforcement has already informed the rental company that the
38 vehicle has been stolen, abandoned, or is missing.

39 (B) If electronic surveillance technology is activated pursuant
40 to subparagraph (A) of paragraph (1), a rental company shall

1 maintain a record, in either electronic or written form, of
2 information relevant to the activation of that technology. That
3 information shall include the rental agreement, including the return
4 date, and the date and time the electronic surveillance technology
5 was activated. The record shall also include, if relevant, a record
6 of written or other communication with the renter, including
7 communications regarding extensions of the rental, police reports,
8 or other written communication with law enforcement officials.
9 The record shall be maintained for a period of at least 12 months
10 from the time the record is created and shall be made available
11 upon the renter's request. The rental company shall maintain and
12 furnish explanatory codes necessary to read the record. A rental
13 company shall not be required to maintain a record if electronic
14 surveillance technology is activated to recover a rental vehicle that
15 is stolen or missing at a time other than during a rental period.

16 (2) In response to a specific request from law enforcement
17 pursuant to a subpoena or search warrant.

18 (3) This subdivision does not prohibit a rental company from
19 equipping rental vehicles with GPS-based technology that provides
20 navigation assistance to the occupants of the rental vehicle, if the
21 rental company does not use, access, or obtain information relating
22 to the renter's use of the rental vehicle that was obtained using
23 that technology, except for the purposes of discovering or repairing
24 a defect in the technology and the information may then be used
25 only for that purpose.

26 (4) This subdivision does not prohibit a rental company from
27 equipping rental vehicles with electronic surveillance technology
28 that allows for the remote locking or unlocking of the vehicle at
29 the request of the renter, if the rental company does not use, access,
30 or obtain information relating to the renter's use of the rental
31 vehicle that was obtained using that technology, except as
32 necessary to lock or unlock the vehicle.

33 (5) This subdivision does not prohibit a rental company from
34 equipping rental vehicles with electronic surveillance technology
35 that allows the company to provide roadside assistance, such as
36 towing, flat tire, or fuel services, at the request of the renter, if the
37 rental company does not use, access, or obtain information relating
38 to the renter's use of the rental vehicle that was obtained using
39 that technology except as necessary to provide the requested
40 roadside assistance.

1 (6) This subdivision does not prohibit a rental company from
2 obtaining, accessing, or using information from electronic
3 surveillance technology for the sole purpose of determining the
4 date and time the vehicle is returned to the rental company, and
5 the total mileage driven and the vehicle fuel level of the returned
6 vehicle. This paragraph, however, shall apply only after the renter
7 has returned the vehicle to the rental company, and the information
8 shall only be used for the purpose described in this paragraph.

9 (p) A rental company shall not use electronic surveillance
10 technology to track a renter in order to impose fines or surcharges
11 relating to the renter's use of the rental vehicle.

12 (q) A renter may bring an action against a rental company for
13 the recovery of damages and appropriate equitable relief for a
14 violation of this section. The prevailing party shall be entitled to
15 recover reasonable attorney's fees and costs.

16 (r) A rental company that brings an action against a renter for
17 loss due to theft of the vehicle shall bring the action in the county
18 in which the renter resides or, if the renter is not a resident of this
19 state, in the jurisdiction in which the renter resides.

20 (s) A waiver of any of the provisions of this section shall be
21 void and unenforceable as contrary to public policy.

22 (t) (1) A rental company's disclosure requirements shall be
23 satisfied for renters who are enrolled in the rental company's
24 membership program if all of the following conditions are met:

25 (A) Prior to the enrollee's first rental as a participant in the
26 program, the renter receives, in writing, the following:

27 (i) All of the disclosures required by paragraph (1) of subdivision
28 (g), including the terms and conditions of the rental agreement
29 then in effect.

30 (ii) An Internet Web site address, as well as a contact number
31 or address, where the enrollee can learn of changes to the rental
32 agreement or to the laws of this state governing rental agreements
33 since the effective date of the rental company's most recent
34 restatement of the rental agreement and distribution of that
35 restatement to its members.

36 (B) At the commencement of each rental period, the renter is
37 provided, on the rental record or the folder in which it is inserted,
38 with a printed notice stating that he or she had either previously
39 selected or declined an optional damage waiver and that the renter
40 has the right to change preferences.

1 (C) At the commencement of each rental period, the rental
2 company provides, on the rearview mirror, a hanger on which a
3 statement is printed, in a box, in at least 12-point boldface type,
4 notifying the renter that the collision damage waiver offered by
5 the rental company may be duplicative of coverage that the
6 customer maintains under his or her own policy of motor vehicle
7 insurance. If it is not feasible to hang the statement from the
8 rearview mirror, it shall be hung from the steering wheel.

9 The hanger shall provide the renter a box to initial if he or she
10 (not his or her employer) has previously accepted or declined the
11 collision damage waiver and that he or she now wishes to change
12 his or her decision to accept or decline the collision damage waiver,
13 as follows:

14 “ If I previously accepted the collision damage waiver, I
15 now decline it.

16 If I previously declined the collision damage waiver, I now
17 accept it.”

18 The hanger shall also provide a box for the enrollee to indicate
19 whether this change applies to this rental transaction only or to all
20 future rental transactions. The hanger shall also notify the renter
21 that he or she may make that change, prior to leaving the lot, by
22 returning the form to an employee designated to receive the form
23 who is present at the lot where the renter takes possession of the
24 car, to receive any change in the rental agreement from the renter.

25 (2) (A) This subdivision is not effective unless the employee
26 designated pursuant to subparagraph (E) of paragraph (8) of
27 subdivision (a) is actually present at the required location.

28 (B) This subdivision does not relieve the rental company from
29 the disclosures required to be made within the text of a contract
30 or holder in which the contract is placed; in or on an advertisement
31 containing a rental rate; or in a telephonic, in-person, or
32 computer-transmitted quotation or reservation.

33 (u) The amendments made to this section during the 2001–02
34 Regular Session of the Legislature do not affect litigation pending
35 on or before January 1, 2003, alleging a violation of Section 22325
36 of the Business and Professions Code as it read at the time the
37 action was commenced.

38 ~~SEC. 33.~~

39 *SEC. 32.* Section 1951.7 of the Civil Code is amended to read:

1 1951.7. (a) As used in this section, “advance payment” means
2 moneys paid to the lessor of real property as prepayment of rent,
3 or as a deposit to secure faithful performance of the terms of the
4 lease, or another payment that is the substantial equivalent of either
5 of these. A payment that is not in excess of the amount of one
6 month’s rent is not an advance payment for purposes of this section.

7 (b) The notice provided by subdivision (c) is required to be
8 given only if all of the following apply:

9 (1) The lessee has made an advance payment.

10 (2) The lease is terminated pursuant to Section 1951.2.

11 (3) The lessee has made a request, in writing, to the lessor that
12 he or she be given notice under subdivision (c).

13 (c) Upon the initial reletting of the property, the lessor shall
14 send a written notice to the lessee stating that the property has been
15 relet, the name and address of the new lessee, and the length of
16 the new lease and the amount of the rent. The notice shall be
17 delivered to the lessee personally, or be sent by regular mail to the
18 lessee at the address shown on the request, not later than 30 days
19 after the new lessee takes possession of the property. Notice is not
20 required if the amount of the rent due and unpaid at the time of
21 termination exceeds the amount of the advance payment.

22 ~~SEC. 34.~~

23 *SEC. 33.* Section 2938 of the Civil Code is amended to read:

24 2938. (a) A written assignment of an interest in leases, rents,
25 issues, or profits of real property made in connection with an
26 obligation secured by real property, irrespective of whether the
27 assignment is denoted as absolute, absolute conditioned upon
28 default, additional security for an obligation, or otherwise, shall,
29 upon execution and delivery by the assignor, be effective to create
30 a present security interest in existing and future leases, rents, issues,
31 or profits of that real property. As used in this section, “leases,
32 rents, issues, and profits of real property” includes the cash
33 proceeds thereof. “Cash proceeds” means cash, checks, deposit
34 accounts, and the like.

35 (b) An assignment of an interest in leases, rents, issues, or profits
36 of real property may be recorded in the records of the county
37 recorder in the county in which the underlying real property is
38 located in the same manner as any other conveyance of an interest
39 in real property, whether the assignment is in a separate document
40 or part of a mortgage or deed of trust, and when so duly recorded

1 in accordance with the methods, procedures, and requirements for
2 recordation of conveyances of other interests in real property, (1)
3 the assignment shall be deemed to give constructive notice of the
4 content of the assignment with the same force and effect as any
5 other duly recorded conveyance of an interest in real property and
6 (2) the interest granted by the assignment shall be deemed fully
7 perfected as of the time of recordation with the same force and
8 effect as any other duly recorded conveyance of an interest in real
9 property, notwithstanding a provision of the assignment or a
10 provision of law that would otherwise preclude or defer
11 enforcement of the rights granted the assignee under the assignment
12 until the occurrence of a subsequent event, including, but not
13 limited to, a subsequent default of the assignor, or the assignee's
14 obtaining possession of the real property or the appointment of a
15 receiver.

16 (c) Upon default of the assignor under the obligation secured
17 by the assignment of leases, rents, issues, and profits, the assignee
18 shall be entitled to enforce the assignment in accordance with this
19 section. On and after the date the assignee takes one or more of
20 the enforcement steps described in this subdivision, the assignee
21 shall be entitled to collect and receive all rents, issues, and profits
22 that have accrued but remain unpaid and uncollected by the
23 assignor or its agent or for the assignor's benefit on that date, and
24 all rents, issues, and profits that accrue on or after the date. The
25 assignment shall be enforced by one or more of the following:

- 26 (1) The appointment of a receiver.
27 (2) Obtaining possession of the rents, issues, or profits.
28 (3) Delivery to any one or more of the tenants of a written
29 demand for turnover of rents, issues, and profits in the form
30 specified in subdivision (k), a copy of which demand shall also be
31 delivered to the assignor; and a copy of which shall be mailed to
32 all other assignees of record of the leases, rents, issues, and profits
33 of the real property at the address for notices provided in the
34 assignment or, if none, to the address to which the recorded
35 assignment was to be mailed after recording.
36 (4) Delivery to the assignor of a written demand for the rents,
37 issues, or profits, a copy of which shall be mailed to all other
38 assignees of record of the leases, rents, issues, and profits of the
39 real property at the address for notices provided in the assignment

1 or, if none, to the address to which the recorded assignment was
2 to be mailed after recording.

3 Moneys received by the assignee pursuant to this subdivision,
4 net of amounts paid pursuant to subdivision (g), if any, shall be
5 applied by the assignee to the debt or otherwise in accordance with
6 the assignment or the promissory note, deed of trust, or other
7 instrument evidencing the obligation, provided, however, that
8 neither the application nor the failure to so apply the rents, issues,
9 or profits shall result in a loss of any lien or security interest that
10 the assignee may have in the underlying real property or any other
11 collateral, render the obligation unenforceable, constitute a
12 violation of Section 726 of the Code of Civil Procedure, or
13 otherwise limit a right available to the assignee with respect to its
14 security.

15 (d) If an assignee elects to take the action provided for under
16 paragraph (3) of subdivision (c), the demand provided for therein
17 shall be signed under penalty of perjury by the assignee or an
18 authorized agent of the assignee and shall be effective as against
19 the tenant when actually received by the tenant at the address for
20 notices provided under the lease or other contractual agreement
21 under which the tenant occupies the property or, if no address for
22 notices is so provided, at the property. Upon receipt of this demand,
23 the tenant shall be obligated to pay to the assignee all rents, issues,
24 and profits that are past due and payable on the date of receipt of
25 the demand, and all rents, issues, and profits coming due under
26 the lease following the date of receipt of the demand, unless either
27 of the following occurs:

28 (1) The tenant has previously received a demand that is valid
29 on its face from another assignee of the leases, issues, rents, and
30 profits sent by the other assignee in accordance with this
31 subdivision and subdivision (c).

32 (2) The tenant, in good faith and in a manner that is not
33 inconsistent with the lease, has previously paid, or within 10 days
34 following receipt of the demand notice pays, the rent to the
35 assignor.

36 Payment of rent to an assignee following a demand under an
37 assignment of leases, rents, issues, and profits shall satisfy the
38 tenant's obligation to pay the amounts under the lease. If a tenant
39 pays rent to the assignor after receipt of a demand other than under
40 the circumstances described in this subdivision, the tenant shall

1 not be discharged of the obligation to pay rent to the assignee,
2 unless the tenant occupies the property for residential purposes.
3 The obligation of a tenant to pay rent pursuant to this subdivision
4 and subdivision (c) shall continue until receipt by the tenant of a
5 written notice from a court directing the tenant to pay the rent in
6 a different manner or receipt by the tenant of a written notice from
7 the assignee from whom the demand was received canceling the
8 demand, whichever occurs first. This subdivision does not affect
9 the entitlement to rents, issues, or profits as between assignees as
10 set forth in subdivision (h).

11 (e) An enforcement action of the type authorized by subdivision
12 (c), and a collection, distribution, or application of rents, issues,
13 or profits by the assignee following an enforcement action of the
14 type authorized by subdivision (c), shall not do any of the
15 following:

16 (1) Make the assignee a mortgagee in possession of the property,
17 except if the assignee obtains actual possession of the real property,
18 or an agent of the assignor.

19 (2) Constitute an action, render the obligation unenforceable,
20 violate Section 726 of the Code of Civil Procedure, or, other than
21 with respect to marshaling requirements, otherwise limit any rights
22 available to the assignee with respect to its security.

23 (3) Be deemed to create a bar to a deficiency judgment pursuant
24 to a provision of law governing or relating to deficiency judgments
25 following the enforcement of any encumbrance, lien, or security
26 interest, notwithstanding that the action, collection, distribution,
27 or application may reduce the indebtedness secured by the
28 assignment or by a deed of trust or other security instrument.

29 The application of rents, issues, or profits to the secured
30 obligation shall satisfy the secured obligation to the extent of those
31 rents, issues, or profits, and, notwithstanding any provisions of the
32 assignment or other loan documents to the contrary, shall be
33 credited against any amounts necessary to cure any monetary
34 default for purposes of reinstatement under Section 2924c.

35 (f) If cash proceeds of rents, issues, or profits to which the
36 assignee is entitled following enforcement as set forth in
37 subdivision (c) are received by the assignor or its agent for
38 collection or by another person who has collected such rents, issues,
39 or profits for the assignor's benefit, or for the benefit of a
40 subsequent assignee under the circumstances described in

1 subdivision (h), following the taking by the assignee of either of
2 the enforcement actions authorized in paragraph (3) or (4) of
3 subdivision (c), and the assignee has not authorized the assignor's
4 disposition of the cash proceeds in a writing signed by the assignee,
5 the rights to the cash proceeds and to the recovery of the cash
6 proceeds shall be determined by the following:

7 (1) The assignee shall be entitled to an immediate turnover of
8 the cash proceeds received by the assignor or its agent for collection
9 or any other person who has collected the rents, issues, or profits
10 for the assignor's benefit, or for the benefit of a subsequent
11 assignee under the circumstances described in subdivision (h), and
12 the assignor or other described party in possession of those cash
13 proceeds shall turn over the full amount of cash proceeds to the
14 assignee, less any amount representing payment of expenses
15 authorized by the assignee in writing. The assignee shall have a
16 right to bring an action for recovery of the cash proceeds, and to
17 recover the cash proceeds, without the necessity of bringing an
18 action to foreclose a security interest that it may have in the real
19 property. This action shall not violate Section 726 of the Code of
20 Civil Procedure or otherwise limit a right available to the assignee
21 with respect to its security.

22 (2) As between an assignee with an interest in cash proceeds
23 perfected in the manner set forth in subdivision (b) and enforced
24 in accordance with paragraph (3) or (4) of subdivision (c) and
25 another person claiming an interest in the cash proceeds, other
26 than the assignor or its agent for collection or one collecting rents,
27 issues, and profits for the benefit of the assignor, and subject to
28 subdivision (h), the assignee shall have a continuously perfected
29 security interest in the cash proceeds to the extent that the cash
30 proceeds are identifiable. For purposes hereof, cash proceeds are
31 identifiable if they are either (A) segregated or (B) if commingled
32 with other funds of the assignor or its agent or one acting on its
33 behalf, can be traced using the lowest intermediate balance
34 principle, unless the assignor or other party claiming an interest
35 in proceeds shows that some other method of tracing would better
36 serve the interests of justice and equity under the circumstances
37 of the case. The provisions of this paragraph are subject to any
38 generally applicable law with respect to payments made in the
39 operation of the assignor's business.

1 (g) (1) If the assignee enforces the assignment under subdivision
2 (c) by means other than the appointment of a receiver and receives
3 rents, issues, or profits pursuant to this enforcement, the assignor
4 or another assignee of the affected real property may make written
5 demand upon the assignee to pay the reasonable costs of protecting
6 and preserving the property, including payment of taxes and
7 insurance and compliance with building and housing codes, if any.

8 (2) On and after the date of receipt of the demand, the assignee
9 shall pay for the reasonable costs of protecting and preserving the
10 real property to the extent of any rents, issues, or profits actually
11 received by the assignee, provided, however, that no such acts by
12 the assignee shall cause the assignee to become a mortgagee in
13 possession and the assignee's duties under this subdivision, upon
14 receipt of a demand from the assignor or any other assignee of the
15 leases, rents, issues, and profits pursuant to paragraph (1), shall
16 not be construed to require the assignee to operate or manage the
17 property, which obligation shall remain that of the assignor.

18 (3) The obligation of the assignee hereunder shall continue until
19 the earlier of (A) the date on which the assignee obtains the
20 appointment of a receiver for the real property pursuant to
21 application to a court of competent jurisdiction, or (B) the date on
22 which the assignee ceases to enforce the assignment.

23 (4) This subdivision does not supersede or diminish the right
24 of the assignee to the appointment of a receiver.

25 (h) The lien priorities, rights, and interests among creditors
26 concerning rents, issues, or profits collected before the enforcement
27 by the assignee shall be governed by subdivisions (a) and (b).
28 Without limiting the generality of the foregoing, if an assignee
29 who has recorded its interest in leases, rents, issues, and profits
30 prior to the recordation of that interest by a subsequent assignee
31 seeks to enforce its interest in those rents, issues, or profits in
32 accordance with this section after any enforcement action has been
33 taken by a subsequent assignee, the prior assignee shall be entitled
34 only to the rents, issues, and profits that are accrued and unpaid
35 as of the date of its enforcement action and unpaid rents, issues,
36 and profits accruing thereafter. The prior assignee shall have no
37 right to rents, issues, or profits paid prior to the date of the
38 enforcement action, whether in the hands of the assignor or any
39 subsequent assignee. Upon receipt of notice that the prior assignee
40 has enforced its interest in the rents, issues, and profits, the

1 subsequent assignee shall immediately send a notice to any tenant
2 to whom it has given notice under subdivision (c). The notice shall
3 inform the tenant that the subsequent assignee cancels its demand
4 that the tenant pay rent to the subsequent assignee.

5 (i) (1) This section shall apply to contracts entered into on or
6 after January 1, 1997.

7 (2) Sections 2938 and 2938.1, as these sections were in effect
8 prior to January 1, 1997, shall govern contracts entered into prior
9 to January 1, 1997, and shall govern actions and proceedings
10 initiated on the basis of these contracts.

11 (j) "Real property," as used in this section, means real property
12 or any estate or interest therein.

13 (k) The demand required by paragraph (3) of subdivision (c)
14 shall be in the following form:

15
16 DEMAND TO PAY RENT TO
17 PARTY OTHER THAN LANDLORD
18 (SECTION 2938 OF THE CIVIL CODE)

19
20 Tenant: [Name of Tenant]

21
22 Property Occupied by Tenant: [Address]

23
24 Landlord: [Name of Landlord]

25
26 Secured Party: [Name of Secured Party]

27
28 Address: [Address for Payment of Rent to Secured Party and for
29 Further Information]:

30
31 The secured party named above is the assignee of leases, rents,
32 issues, and profits under [name of document] dated _____, and
33 recorded at [recording information] in the official records of
34 _____ County, California. You may request a copy of the
35 assignment from the secured party at _____ (address).

36
37 THIS NOTICE AFFECTS YOUR LEASE OR RENTAL
38 AGREEMENT RIGHTS AND OBLIGATIONS. YOU ARE
39 THEREFORE ADVISED TO CONSULT AN ATTORNEY
40 CONCERNING THOSE RIGHTS AND OBLIGATIONS IF YOU

1 HAVE ANY QUESTIONS REGARDING YOUR RIGHTS AND
2 OBLIGATIONS UNDER THIS NOTICE.

3
4 IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION
5 2938 OF THE CIVIL CODE, YOU ARE HEREBY DIRECTED
6 TO PAY TO THE SECURED PARTY, ____ (NAME OF
7 SECURED PARTY) AT ____ (ADDRESS), ALL RENTS UNDER
8 YOUR LEASE OR OTHER RENTAL AGREEMENT WITH
9 THE LANDLORD OR PREDECESSOR IN INTEREST OF
10 LANDLORD, FOR THE OCCUPANCY OF THE PROPERTY
11 AT ____ (ADDRESS OF RENTAL PREMISES) WHICH ARE
12 PAST DUE AND PAYABLE ON THE DATE YOU RECEIVE
13 THIS DEMAND, AND ALL RENTS COMING DUE UNDER
14 THE LEASE OR OTHER RENTAL AGREEMENT
15 FOLLOWING THE DATE YOU RECEIVE THIS DEMAND
16 UNLESS YOU HAVE ALREADY PAID THIS RENT TO THE
17 LANDLORD IN GOOD FAITH AND IN A MANNER NOT
18 INCONSISTENT WITH THE AGREEMENT BETWEEN YOU
19 AND THE LANDLORD. IN THIS CASE, THIS DEMAND
20 NOTICE SHALL REQUIRE YOU TO PAY TO THE SECURED
21 PARTY, ____ (NAME OF THE SECURED PARTY), ALL
22 RENTS THAT COME DUE FOLLOWING THE DATE OF THE
23 PAYMENT TO THE LANDLORD.

24
25 IF YOU PAY THE RENT TO THE UNDERSIGNED SECURED
26 PARTY, ____ (NAME OF SECURED PARTY), IN
27 ACCORDANCE WITH THIS NOTICE, YOU DO NOT HAVE
28 TO PAY THE RENT TO THE LANDLORD. YOU WILL NOT
29 BE SUBJECT TO DAMAGES OR OBLIGATED TO PAY RENT
30 TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY
31 RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT
32 SECURED PARTY.

33
34 [For other than residential tenants] IF YOU PAY RENT TO THE
35 LANDLORD THAT BY THE TERMS OF THIS DEMAND YOU
36 ARE REQUIRED TO PAY TO THE SECURED PARTY, YOU
37 MAY BE SUBJECT TO DAMAGES INCURRED BY THE
38 SECURED PARTY BY REASON OF YOUR FAILURE TO
39 COMPLY WITH THIS DEMAND, AND YOU MAY NOT BE
40 DISCHARGED FROM YOUR OBLIGATION TO PAY THAT

1 RENT TO THE SECURED PARTY. YOU WILL NOT BE
 2 SUBJECT TO THOSE DAMAGES OR OBLIGATED TO PAY
 3 THAT RENT TO THE SECURED PARTY IF YOU HAVE
 4 PREVIOUSLY RECEIVED A DEMAND OF THIS TYPE FROM
 5 A DIFFERENT ASSIGNEE.

6
 7 Your obligation to pay rent under this demand shall continue until
 8 you receive either (1) a written notice from a court directing you
 9 to pay the rent in a manner provided therein, or (2) a written notice
 10 from the secured party named above canceling this demand.

11
 12 The undersigned hereby certifies, under penalty of perjury, that
 13 the undersigned is an authorized officer or agent of the secured
 14 party and that the secured party is the assignee, or the current
 15 successor to the assignee, under an assignment of leases, rents,
 16 issues, or profits executed by the landlord, or a predecessor in
 17 interest, that is being enforced pursuant to and in accordance with
 18 Section 2938 of the Civil Code.

19
 20 Executed at _____, California, this ____ day of _____,
 21 _____.

22
 23 [Secured Party]
 24 Name: _____
 25
 26 Title: _____
 27

28 ~~SEC. 35.~~
 29 *SEC. 34.* Section 340.7 of the Code of Civil Procedure is
 30 amended to read:
 31 340.7. (a) Notwithstanding Section 335.1, a civil action
 32 brought by, or on behalf of, a Dalkon Shield victim against the
 33 Dalkon Shield Claimants' Trust, shall be brought in accordance
 34 with the procedures established by A.H. Robins Company, Inc.
 35 Plan of Reorganization, and shall be brought within 15 years of
 36 the date on which the victim's injury occurred, except that the
 37 statute shall be tolled from August 21, 1985, the date on which the
 38 A.H. Robins Company filed for Chapter 11 Reorganization in
 39 Richmond, Virginia.

1 (b) This section applies regardless of when the action or claim
2 shall have accrued or been filed and regardless of whether it might
3 have lapsed or otherwise be barred by time under California law.
4 However, this section shall only apply to victims who, prior to
5 January 1, 1990, filed a civil action, a timely claim, or a claim that
6 is declared to be timely under the sixth Amended and Restated
7 Disclosure Statement filed pursuant to Section 1125 of the Federal
8 Bankruptcy Code in re: A.H. Robins Company, Inc., dated March
9 28, 1988, U.S. Bankruptcy Court, Eastern District of Virginia (case
10 number 85-01307-R).

11 ~~SEC. 36.~~

12 *SEC. 35.* Section 486.050 of the Code of Civil Procedure is
13 amended to read:

14 486.050. (a) Except as otherwise provided in Section 486.040,
15 the temporary protective order may prohibit a transfer by the
16 defendant of any of the defendant's property in this state subject
17 to the levy of the writ of attachment. The temporary protective
18 order shall describe the property in a manner adequate to permit
19 the defendant to identify the property subject to the temporary
20 protective order.

21 (b) Notwithstanding subdivision (a), if the property is farm
22 products held for sale or is inventory, the temporary protective
23 order shall not prohibit the defendant from transferring the property
24 in the ordinary course of business, but the temporary protective
25 order may impose appropriate restrictions on the disposition of
26 the proceeds from that type of transfer.

27 ~~SEC. 37.~~

28 *SEC. 36.* Section 9526.5 of the Commercial Code is amended
29 to read:

30 9526.5. (a) For purposes of this section, the following terms
31 have the following meanings:

32 (1) "Official filing" means the permanent archival filing of all
33 instruments, papers, records, and attachments as accepted for filing
34 by a filing office.

35 (2) "Public filing" means a filing that is an exact copy of an
36 official filing except that any social security number contained in
37 the copied filing is truncated. The public filing shall have the same
38 legal force and effect as the official filing.

39 (3) "Truncate" means to redact at least the first five digits of a
40 social security number.

1 (4) “Truncated social security number” means a social security
2 number that displays no more than the last four digits of the
3 number.

4 (b) For every filing containing an untruncated social security
5 number filed before August 1, 2007, a filing office shall create a
6 public filing.

7 (c) A filing office shall post a notice on its Internet Web site
8 informing filers not to include social security numbers in any
9 portion of their filings. A filing office’s online filing system shall
10 not contain a field requesting a social security number.

11 (d) Beginning August 1, 2007, for every filing containing an
12 untruncated social security number filed by means other than the
13 filing office’s Internet Web site, a filing office shall create a public
14 filing.

15 (e) When a public filing version of an official filing exists, both
16 of the following shall apply:

17 (1) Upon a request for inspection, copying, or other public
18 disclosure of an official filing that is not exempt from disclosure,
19 a filing office shall make available only the public filing version
20 of that filing.

21 (2) A filing office shall publicly disclose an official filing only
22 in response to a subpoena or order of a court of competent
23 jurisdiction.

24 (3) This article does not restrict, delay, or modify access to an
25 official filing, or modify existing agreements regarding access to
26 an official filing, prior to the creation and availability of a public
27 filing version of that official filing.

28 (f) A filing office shall be deemed to be in compliance with the
29 requirements of this section and shall not be liable for failure to
30 truncate a social security number if the office uses due diligence
31 to locate social security numbers in official records and truncate
32 the social security numbers in the public filing version of those
33 official filings. The use of an automated program with a high rate
34 of accuracy shall be deemed to be due diligence.

35 (g) In the event that a filing office fails to truncate a social
36 security number contained in a record pursuant to subdivision (b)
37 or (d), a person may request that the filing office truncate the social
38 security number contained in that record. Notwithstanding that a
39 filing office may be deemed to be in compliance with this section
40 pursuant to subdivision (f), a filing office that receives a request

1 that identifies the exact location of an untruncated social security
2 number that is required to be truncated pursuant to subdivision (b)
3 or (d) within a specifically identified record, shall truncate that
4 number within 10 business days of receiving the request. The
5 public filing with the truncated social security number shall replace
6 the record with the untruncated number.

7 (h) The Secretary of State shall not produce or make available
8 financing statements in the form and format described in Section
9 9521 that provide a space identified for the disclosure of the social
10 security number of an individual.

11 (i) The Secretary of State shall produce and make available
12 financing statements in the form and format described in Section
13 9521, except that the financing statements shall not provide a space
14 identified for the disclosure of the social security number of an
15 individual.

16 (j) This section does not apply to a county recorder.

17 ~~SEC. 38.~~

18 *SEC. 37.* The heading of Chapter 1 (commencing with Section
19 8006) of Part 6 of Division 1 of Title 1 of the Education Code is
20 amended to read:

21
22 CHAPTER 1. CAREER TECHNICAL EDUCATION

23
24 ~~SEC. 39.~~

25 *SEC. 38.* The heading of Article 1 (commencing with Section
26 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of the
27 Education Code is amended to read:

28
29 Article 1. Career Technical Education Staff and Reports

30
31 ~~SEC. 40.~~

32 *SEC. 39.* Section 8484 of the Education Code is amended to
33 read:

34 8484. (a) As required by the department, programs established
35 pursuant to this article shall submit annual outcome-based data for
36 evaluation, including research-based indicators and measurable
37 pupil outcomes for academic performance, attendance, and positive
38 behavioral changes. The department may consider these outcomes
39 when determining eligibility for grant renewal.

- 1 (1) To demonstrate program effectiveness, grantees shall submit
2 both of the following:
- 3 (A) Schoolday attendance on an annual basis.
 - 4 (B) Program attendance.
- 5 (2) To demonstrate program effectiveness based upon individual
6 program focus, programs shall submit one or more of the following
7 measures annually:
- 8 (A) Positive behavioral changes, as reported by schoolday
9 teachers or after school staff who directly supervise pupils.
 - 10 (B) Pupil Standardized Testing and Reporting (STAR) Program
11 test scores.
 - 12 (C) Homework completion rates as reported by schoolday
13 teachers or after school staff who directly supervise pupils.
 - 14 (D) Skill development as reported by schoolday teachers or
15 after school staff who directly supervise pupils.
 - 16 (E) The department may develop additional measures for this
17 paragraph. ~~An addition~~ Any additions shall be developed in
18 consultation with the evaluation committee of the advisory
19 committee.
- 20 (3) Programs shall submit information adopted through the
21 process outlined in subdivision (c).
- 22 (b) (1) If a program consistently fails to demonstrate measurable
23 program outcomes for three consecutive years, the department
24 may terminate the program as described in subdivision (a) of
25 Section 8483.7. The department shall consider multiple outcomes
26 and not rely on one outcome in isolation.
 - 27 (2) For purposes of this section, “consistently fails to
28 demonstrate measurable program outcomes” means failure to meet
29 program effectiveness requirements pursuant to the criteria in
30 paragraphs (1) and (2) of subdivision (a).
 - 31 (3) Measurable program outcomes may be demonstrated by,
32 but are not limited to, the following methods:
 - 33 (A) Comparing pupils participating in the program to
34 nonparticipating pupils at the same schoolsite.
 - 35 (B) Pupils participating in the program demonstrate
36 improvement on one or more indicators collected by the program
37 pursuant to this paragraph.
 - 38 (4) For purposes of subparagraph (B) of paragraph (2) of
39 subdivision (a), program effectiveness may be demonstrated using

1 performance levels from the STAR Program by any of the
2 following:

3 (A) The grantee documents that the percentage of pupils
4 performing at the far below basic level declined.

5 (B) The grantee documents that the percentage of pupils
6 performing above the far below basic and below basic levels
7 increased.

8 (C) The grantee documents that the percentage of pupils who
9 performed at or above the basic level increased.

10 (D) The grantee documents that pupils participating in the
11 program performed better in a year-to-year comparison of the
12 results of the STAR Program than their peers who were not
13 participating in the program.

14 (c) The department shall develop standardized procedures and
15 tools to collect the indicators in paragraphs (1) and (2) of
16 subdivision (a). The department shall consult with the evaluation
17 committee of the Advisory Committee on Before and After School
18 Programs pursuant to Section 8484.9.

19 ~~SEC. 41.~~

20 *SEC. 40.* Section 8774 of the Education Code is amended to
21 read:

22 8774. (a) A residential outdoor science program shall be
23 eligible for funding pursuant to this section if it meets both of the
24 following conditions:

25 (1) It is operated by a school district or county office of
26 education pursuant to this article.

27 (2) It meets the standards of the Residential Outdoor Science
28 School (ROSS) Guide and maintains current department ROSS
29 certification.

30 (b) An eligible residential outdoor science program may claim
31 apportionment for any pupil who meets all of the following
32 conditions:

33 (1) The pupil is enrolled in a California public school.

34 (2) The pupil is enrolled in grade 5 or 6.

35 (3) The applicant has not previously received funding for the
36 pupil pursuant to this section.

37 (4) The pupil participates in a minimum four-day and three-night
38 program.

39 (5) The pupil is economically disadvantaged and meets the
40 criteria of Section 49552.

1 (c) The Superintendent shall, subject to appropriation of funds
2 for this purpose, apportion to each school district or county office
3 of education that operates a residential outdoor science program
4 pursuant to this article an amount equal to ten dollars (\$10) per
5 eligible participating pupil, multiplied by the total number of days
6 of participation, up to a maximum of five days.

7 ~~SEC. 42.~~

8 *SEC. 41.* Section 17075.10 of the Education Code is amended
9 to read:

10 17075.10. (a) A school district may apply for hardship
11 assistance in cases of extraordinary circumstances. Extraordinary
12 circumstances may include, but are not limited to, the need to
13 repair, reconstruct, or replace the most vulnerable school facilities
14 that are identified as a Category 2 building, as defined in the report
15 submitted pursuant to Section 17317, determined by the department
16 to pose an unacceptable risk of injury to its occupants in the event
17 of a seismic event.

18 (b) A school district applying for hardship state funding under
19 this article shall comply with either paragraph (1) or (2).

20 (1) Demonstrate both of the following:

21 (A) That due to extreme financial, disaster-related, or other
22 hardship the school district has unmet need for pupil housing.

23 (B) That the school district is not financially capable of
24 providing the matching funds otherwise required for state
25 participation, that the district has made all reasonable efforts to
26 impose all levels of local debt capacity and development fees, and
27 that the school district is, therefore, unable to participate in the
28 program pursuant to this chapter except as set forth in this article.

29 (2) Demonstrate that due to unusual circumstances that are
30 beyond the control of the district, excessive costs need to be
31 incurred in the construction of school facilities. Funds for the
32 purpose of seismic mitigation work or facility replacement pursuant
33 to this section shall be allocated by the board on a 50-percent state
34 share basis from funds reserved for that purpose in any bond
35 approved by the voters after January 1, 2006. If the board
36 determines that the seismic mitigation work of a school building
37 would require funding that is greater than 50 percent of the funds
38 required to construct a new facility, the school district shall be
39 eligible for funding to construct a new facility under this chapter.

1 (c) The board shall review the increased costs that may be
2 uniquely associated with urban construction and shall adjust the
3 per-pupil grant for new construction or modernization hardship
4 applications as necessary to accommodate those costs. The board
5 shall adopt regulations setting forth the standards, methodology,
6 and a schedule of allowable adjustments, for the urban adjustment
7 factor established pursuant to this subdivision.

8 ~~SEC. 43.~~

9 *SEC. 42.* Section 33051 of the Education Code is amended to
10 read:

11 33051. (a) The state board shall approve any and all requests
12 for waivers except in those cases where the board specifically finds
13 any of the following:

14 (1) The educational needs of the pupils are not adequately
15 addressed.

16 (2) The waiver affects a program that requires the existence of
17 a schoolsite council and the schoolsite council did not approve the
18 request.

19 (3) The appropriate councils or advisory committees, including
20 bilingual advisory committees, did not have an adequate
21 opportunity to review the request and the request did not include
22 a written summary of any objections to the request by the councils
23 or advisory committees.

24 (4) Pupil or school personnel protections are jeopardized.

25 (5) Guarantees of parental involvement are jeopardized.

26 (6) The request would substantially increase state costs.

27 (7) The exclusive representative of employees, if any, as
28 provided in Chapter 10.7 (commencing with Section 3540) of
29 Division 4 of Title 1 of the Government Code, was not a participant
30 in the development of the waiver.

31 (b) The governing board of a school district that has requested
32 and received a general waiver under this article for two consecutive
33 years for the same general waiver is not required to reapply
34 annually if the information contained on the request remains
35 current. The state board may require updated information for the
36 request whenever it determines that information to be necessary.
37 This section does not prevent the state board from rescinding a
38 waiver if additional information supporting a rescission is made
39 available to the board. This waiver process shall not apply to

1 waivers pertaining to teacher credentialing, which shall be
2 submitted to the state board annually.

3 ~~SEC. 44.~~

4 *SEC. 43.* Section 33382 of the Education Code is amended to
5 read:

6 33382. The state board, upon the advice and recommendations
7 of the Superintendent, shall approve revised guidelines for the
8 selection and administration of California American Indian
9 education centers. The Superintendent shall request input from the
10 American Indian Education Oversight Committee on amendments
11 and updates to the 1975 guidelines and the committee may provide
12 input to the Superintendent prior to the submission of the guidelines
13 to the state board.

14 ~~SEC. 45.~~

15 *SEC. 44.* Section 35021.3 of the Education Code is amended
16 to read:

17 35021.3. (a) A school district or a county office of education
18 may establish a registry of volunteer after school physical
19 recreation instructors and other before and after school program
20 volunteers.

21 (b) (1) To be included on a registry established pursuant to this
22 section, a prospective registrant shall submit to a criminal
23 background check pursuant to Section 45125. The prospective
24 registrant shall also submit current contact information to the
25 school district or county office maintaining the registry and shall
26 update that information whenever the information changes.

27 (2) A school, school district, or county office of education may
28 contribute funds to pay for all or part of the cost of a criminal
29 background check required of a prospective registrant pursuant to
30 paragraph (1).

31 (c) A school district or county office maintaining a registry may
32 impose other requirements on prospective registrants, including,
33 but not limited to, certification in cardiopulmonary resuscitation.

34 (d) Upon approval of the person acting as the coordinator of,
35 or overseeing, the after school activities of the school, a school
36 under the jurisdiction of a school district or county office of
37 education maintaining a registry may allow a volunteer registered
38 with the school district or county office to provide instruction in
39 physical recreation to pupils after school hours or provide other
40 services.

1 (e) This section does not require a school district or county
2 office of education to establish or maintain a registry and does not
3 require a school to use a volunteer from a registry to provide
4 instruction in physical recreation to pupils after school hours or
5 provide other services.

6 (f) Instruction in physical recreation provided to a pupil by a
7 volunteer pursuant to subdivision (d) shall not be counted toward
8 satisfaction of either the physical education course requirements
9 for graduation from high school pursuant to Section 51225.3 or
10 the number of minutes of instruction in physical education required
11 pursuant to Section 51210, 51222, or 51223, as applicable.

12 ~~SEC. 46.~~

13 *SEC. 45.* Section 46300 of the Education Code is amended to
14 read:

15 46300. (a) In computing average daily attendance of a school
16 district or county office of education, there shall be included the
17 attendance of pupils while engaged in educational activities
18 required of those pupils and under the immediate supervision and
19 control of an employee of the district or county office who
20 possessed a valid certification document, registered as required
21 by law.

22 (b) (1) For purposes of a work experience education program
23 in a secondary school that meets the standards of the California
24 State Plan for Career Technical Education, “immediate
25 supervision,” in the context of off-campus work training stations,
26 means pupil participation in on-the-job training as outlined under
27 a training agreement, coordinated by the school district under a
28 state-approved plan, wherein the employer and certificated school
29 personnel share the responsibility for on-the-job supervision.

30 (2) The pupil-teacher ratio in a work experience program shall
31 not exceed 125 pupils per full-time equivalent certificated teacher
32 coordinator. This ratio may be waived by the state board pursuant
33 to Article 3 (commencing with Section 33050) of Chapter 1 of
34 Part 20 of Division 3 2 under criteria developed by the state board.

35 (3) A pupil enrolled in a work experience program shall not be
36 credited with more than one day of attendance per calendar day,
37 and shall be a full-time pupil enrolled in regular classes that meet
38 the requirements of Section 46141 or 46144.

39 (c) (1) For purposes of the rehabilitative schools, classes, or
40 programs described in Section 48917 that require immediate

1 supervision, “immediate supervision” means that the person to
2 whom the pupil is required to report for training, counseling,
3 tutoring, or other prescribed activity shares the responsibility for
4 the supervision of the pupils in the rehabilitative activities with
5 certificated personnel of the district.

6 (2) A pupil enrolled in a rehabilitative school, class, or program
7 shall not be credited with more than one day of attendance per
8 calendar day.

9 (d) (1) For purposes of computing the average daily attendance
10 of pupils engaged in the educational activities required of high
11 school pupils who are also enrolled in a regional occupational
12 center or regional occupational program, the school district shall
13 receive proportional average daily attendance credit for those
14 educational activities that are less than the minimum schoolday,
15 pursuant to regulations adopted by the state board; however, none
16 of that attendance shall be counted for purposes of computing
17 attendance pursuant to Section 52324.

18 (2) A school district shall not receive proportional average daily
19 attendance credit pursuant to this subdivision for a pupil in
20 attendance for less than 145 minutes each day.

21 (3) The divisor for computing proportional average daily
22 attendance pursuant to this subdivision is 240, except that, in the
23 case of a pupil excused from physical education classes pursuant
24 to Section 52316, the divisor is 180.

25 (4) Notwithstanding any other provision of law, travel time of
26 pupils to attend a regional occupational center or regional
27 occupational program shall not be used in any manner in the
28 computation of average daily attendance.

29 (e) (1) In computing the average daily attendance of a school
30 district, there shall also be included the attendance of pupils
31 participating in independent study conducted pursuant to Article
32 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for
33 five or more consecutive schooldays.

34 (2) A pupil participating in independent study shall not be
35 credited with more than one day of attendance per calendar day.

36 (f) For purposes of cooperative career technical education
37 programs and community classrooms described in Section 52372.1,
38 “immediate supervision” means pupil participation in paid and
39 unpaid on-the-job experiences, as outlined under a training
40 agreement and individualized training plans wherein the supervisor

1 of the training site and certificated school personnel share the
2 responsibility for the supervision of on-the-job experiences.

3 (g) In computing the average daily attendance of a school
4 district, there shall be included the attendance of pupils in
5 kindergarten after they have completed one school year in
6 kindergarten only if the school district has on file for each of those
7 pupils an agreement made pursuant to Section 48011, approved
8 in form and content by the department and signed by the pupil’s
9 parent or guardian, that the pupil may continue in kindergarten for
10 not more than one additional school year.

11 ~~SEC. 47.~~

12 *SEC. 46.* Section 47605 of the Education Code is amended to
13 read:

14 47605. (a) (1) Except as set forth in paragraph (2), a petition
15 for the establishment of a charter school within a school district
16 may be circulated by one or more persons seeking to establish the
17 charter school. A petition for the establishment of a charter school
18 shall identify a single charter school that will operate within the
19 geographic boundaries of that school district. A charter school
20 may propose to operate at multiple sites within the school district,
21 as long as each location is identified in the charter school petition.
22 The petition may be submitted to the governing board of the school
23 district for review after either of the following conditions are met:

24 (A) The petition has been signed by a number of parents or legal
25 guardians of pupils that is equivalent to at least one-half of the
26 number of pupils that the charter school estimates will enroll in
27 the school for its first year of operation.

28 (B) The petition has been signed by a number of teachers that
29 is equivalent to at least one-half of the number of teachers that the
30 charter school estimates will be employed at the school during its
31 first year of operation.

32 (2) A petition that proposes to convert an existing public school
33 to a charter school that would not be eligible for a loan pursuant
34 to subdivision (b) of Section 41365 may be circulated by one or
35 more persons seeking to establish the charter school. The petition
36 may be submitted to the governing board of the school district for
37 review after the petition has been signed by not less than 50 percent
38 of the permanent status teachers currently employed at the public
39 school to be converted.

1 (3) A petition shall include a prominent statement that a
2 signature on the petition means that the parent or legal guardian
3 is meaningfully interested in having his or her child or ward attend
4 the charter school, or in the case of a teacher's signature, means
5 that the teacher is meaningfully interested in teaching at the charter
6 school. The proposed charter shall be attached to the petition.

7 (4) After receiving approval of its petition, a charter school that
8 proposes to establish operations at one or more additional sites
9 shall request a material revision to its charter and shall notify the
10 authority that granted its charter of those additional locations. The
11 authority that granted its charter shall consider whether to approve
12 those additional locations at an open, public meeting. If the
13 additional locations are approved, they shall be a material revision
14 to the charter school's charter.

15 (5) A charter school that is unable to locate within the
16 jurisdiction of the chartering school district may establish one site
17 outside the boundaries of the school district, but within the county
18 in which that school district is located, if the school district within
19 the jurisdiction of which the charter school proposes to operate is
20 notified in advance of the charter petition approval, the county
21 superintendent of schools and the Superintendent are notified of
22 the location of the charter school before it commences operations,
23 and either of the following circumstances exist:

24 (A) The school has attempted to locate a single site or facility
25 to house the entire program, but a site or facility is unavailable in
26 the area in which the school chooses to locate.

27 (B) The site is needed for temporary use during a construction
28 or expansion project.

29 (6) Commencing January 1, 2003, a petition to establish a charter
30 school may not be approved to serve pupils in a grade level that
31 is not served by the school district of the governing board
32 considering the petition, unless the petition proposes to serve pupils
33 in all of the grade levels served by that school district.

34 (b) No later than 30 days after receiving a petition, in accordance
35 with subdivision (a), the governing board of the school district
36 shall hold a public hearing on the provisions of the charter, at
37 which time the governing board of the school district shall consider
38 the level of support for the petition by teachers employed by the
39 district, other employees of the district, and parents. Following
40 review of the petition and the public hearing, the governing board

1 of the school district shall either grant or deny the charter within
2 60 days of receipt of the petition, provided, however, that the date
3 may be extended by an additional 30 days if both parties agree to
4 the extension. In reviewing petitions for the establishment of
5 charter schools pursuant to this section, the chartering authority
6 shall be guided by the intent of the Legislature that charter schools
7 are and should become an integral part of the California educational
8 system and that establishment of charter schools should be
9 encouraged. The governing board of the school district shall grant
10 a charter for the operation of a school under this part if it is satisfied
11 that granting the charter is consistent with sound educational
12 practice. The governing board of the school district shall not deny
13 a petition for the establishment of a charter school unless it makes
14 written factual findings, specific to the particular petition, setting
15 forth specific facts to support one or more of the following
16 findings:

17 (1) The charter school presents an unsound educational program
18 for the pupils to be enrolled in the charter school.

19 (2) The petitioners are demonstrably unlikely to successfully
20 implement the program set forth in the petition.

21 (3) The petition does not contain the number of signatures
22 required by subdivision (a).

23 (4) The petition does not contain an affirmation of each of the
24 conditions described in subdivision (d).

25 (5) The petition does not contain reasonably comprehensive
26 descriptions of all of the following:

27 (A) (i) A description of the educational program of the school,
28 designed, among other things, to identify those whom the school
29 is attempting to educate, what it means to be an “educated person”
30 in the 21st century, and how learning best occurs. The goals
31 identified in that program shall include the objective of enabling
32 pupils to become self-motivated, competent, and lifelong learners.

33 (ii) If the proposed school will serve high school pupils, a
34 description of the manner in which the charter school will inform
35 parents about the transferability of courses to other public high
36 schools and the eligibility of courses to meet college entrance
37 requirements. Courses offered by the charter school that are
38 accredited by the Western Association of Schools and Colleges
39 may be considered transferable and courses approved by the
40 University of California or the California State University as

1 creditable under the “A” to “G” admissions criteria may be
2 considered to meet college entrance requirements.

3 (B) The measurable pupil outcomes identified for use by the
4 charter school. “Pupil outcomes,” for purposes of this part, means
5 the extent to which all pupils of the school demonstrate that they
6 have attained the skills, knowledge, and attitudes specified as goals
7 in the school’s educational program.

8 (C) The method by which pupil progress in meeting those pupil
9 outcomes is to be measured.

10 (D) The governance structure of the school, including, but not
11 limited to, the process to be followed by the school to ensure
12 parental involvement.

13 (E) The qualifications to be met by individuals to be employed
14 by the school.

15 (F) The procedures that the school will follow to ensure the
16 health and safety of pupils and staff. These procedures shall include
17 the requirement that each employee of the school furnish the school
18 with a criminal record summary as described in Section 44237.

19 (G) The means by which the school will achieve a racial and
20 ethnic balance among its pupils that is reflective of the general
21 population residing within the territorial jurisdiction of the school
22 district to which the charter petition is submitted.

23 (H) Admission requirements, if applicable.

24 (I) The manner in which annual, independent financial audits
25 shall be conducted, which shall employ generally accepted
26 accounting principles, and the manner in which audit exceptions
27 and deficiencies shall be resolved to the satisfaction of the
28 chartering authority.

29 (J) The procedures by which pupils can be suspended or
30 expelled.

31 (K) The manner by which staff members of the charter schools
32 will be covered by the State Teachers’ Retirement System, the
33 Public Employees’ Retirement System, or federal social security.

34 (L) The public school attendance alternatives for pupils residing
35 within the school district who choose not to attend charter schools.

36 (M) A description of the rights of any employee of the school
37 district upon leaving the employment of the school district to work
38 in a charter school, and of any rights of return to the school district
39 after employment at a charter school.

1 (N) The procedures to be followed by the charter school and
2 the entity granting the charter to resolve disputes relating to
3 provisions of the charter.

4 (O) A declaration whether or not the charter school shall be
5 deemed the exclusive public school employer of the employees of
6 the charter school for the purposes of Chapter 10.7 (commencing
7 with Section 3540) of Division 4 of Title 1 of the Government
8 Code.

9 (P) A description of the procedures to be used if the charter
10 school closes. The procedures shall ensure a final audit of the
11 school to determine the disposition of all assets and liabilities of
12 the charter school, including plans for disposing of any net assets
13 and for the maintenance and transfer of pupil records.

14 (c) (1) Charter schools shall meet all statewide standards and
15 conduct the pupil assessments required pursuant to Sections 60605
16 and 60851 and any other statewide standards authorized in statute
17 or pupil assessments applicable to pupils in noncharter public
18 schools.

19 (2) Charter schools shall, on a regular basis, consult with their
20 parents, legal guardians, and teachers regarding the school's
21 educational programs.

22 (d) (1) In addition to any other requirement imposed under this
23 part, a charter school shall be nonsectarian in its programs,
24 admission policies, employment practices, and all other operations,
25 shall not charge tuition, and shall not discriminate against any
26 pupil on the basis of the characteristics listed in Section 220. Except
27 as provided in paragraph (2), admission to a charter school shall
28 not be determined according to the place of residence of the pupil,
29 or of his or her parent or legal guardian, within this state, except
30 that an existing public school converting partially or entirely to a
31 charter school under this part shall adopt and maintain a policy
32 giving admission preference to pupils who reside within the former
33 attendance area of that public school.

34 (2) (A) A charter school shall admit all pupils who wish to
35 attend the school.

36 (B) However, if the number of pupils who wish to attend the
37 charter school exceeds the school's capacity, attendance, except
38 for existing pupils of the charter school, shall be determined by a
39 public random drawing. Preference shall be extended to pupils
40 currently attending the charter school and pupils who reside in the

1 district except as provided for in Section 47614.5. Other
2 preferences may be permitted by the chartering authority on an
3 individual school basis and only if consistent with the law.

4 (C) In the event of a drawing, the chartering authority shall
5 make reasonable efforts to accommodate the growth of the charter
6 school and in no event shall take any action to impede the charter
7 school from expanding enrollment to meet pupil demand.

8 (3) If a pupil is expelled or leaves the charter school without
9 graduating or completing the school year for any reason, the charter
10 school shall notify the superintendent of the school district of the
11 pupil's last known address within 30 days, and shall, upon request,
12 provide that school district with a copy of the cumulative record
13 of the pupil, including a transcript of grades or report card, and
14 health information. This paragraph applies only to pupils subject
15 to compulsory full-time education pursuant to Section 48200.

16 (e) The governing board of a school district shall not require
17 any employee of the school district to be employed in a charter
18 school.

19 (f) The governing board of a school district shall not require
20 any pupil enrolled in the school district to attend a charter school.

21 (g) The governing board of a school district shall require that
22 the petitioner or petitioners provide information regarding the
23 proposed operation and potential effects of the school, including,
24 but not limited to, the facilities to be utilized by the school, the
25 manner in which administrative services of the school are to be
26 provided, and potential civil liability effects, if any, upon the school
27 and upon the school district. The description of the facilities to be
28 used by the charter school shall specify where the school intends
29 to locate. The petitioner or petitioners shall also be required to
30 provide financial statements that include a proposed first-year
31 operational budget, including startup costs, and cashflow and
32 financial projections for the first three years of operation.

33 (h) In reviewing petitions for the establishment of charter
34 schools within the school district, the governing board of the school
35 district shall give preference to petitions that demonstrate the
36 capability to provide comprehensive learning experiences to pupils
37 identified by the petitioner or petitioners as academically low
38 achieving pursuant to the standards established by the department
39 under Section 54032 as it read prior to July 19, 2006.

1 (i) Upon the approval of the petition by the governing board of
2 the school district, the petitioner or petitioners shall provide written
3 notice of that approval, including a copy of the petition, to the
4 applicable county superintendent of schools, the department, and
5 the state board.

6 (j) (1) If the governing board of a school district denies a
7 petition, the petitioner may elect to submit the petition for the
8 establishment of a charter school to the county board of education.
9 The county board of education shall review the petition pursuant
10 to subdivision (b). If the petitioner elects to submit a petition for
11 establishment of a charter school to the county board of education
12 and the county board of education denies the petition, the petitioner
13 may file a petition for establishment of a charter school with the
14 state board, and the state board may approve the petition, in
15 accordance with subdivision (b). A charter school that receives
16 approval of its petition from a county board of education or from
17 the state board on appeal shall be subject to the same requirements
18 concerning geographic location to which it would otherwise be
19 subject if it received approval from the entity to which it originally
20 submitted its petition. A charter petition that is submitted to either
21 a county board of education or to the state board shall meet all
22 otherwise applicable petition requirements, including the
23 identification of the proposed site or sites where the charter school
24 will operate.

25 (2) In assuming its role as a chartering agency, the state board
26 shall develop criteria to be used for the review and approval of
27 charter school petitions presented to the state board. The criteria
28 shall address all elements required for charter approval, as
29 identified in subdivision (b) and shall define “reasonably
30 comprehensive” as used in paragraph (5) of subdivision (b) in a
31 way that is consistent with the intent of this part. Upon satisfactory
32 completion of the criteria, the state board shall adopt the criteria
33 on or before June 30, 2001.

34 (3) A charter school for which a charter is granted by either the
35 county board of education or the state board based on an appeal
36 pursuant to this subdivision shall qualify fully as a charter school
37 for all funding and other purposes of this part.

38 (4) If either the county board of education or the state board
39 fails to act on a petition within 120 days of receipt, the decision

1 of the governing board of the school district to deny a petition
2 shall, thereafter, be subject to judicial review.

3 (5) The state board shall adopt regulations implementing this
4 subdivision.

5 (6) Upon the approval of the petition by the county board of
6 education, the petitioner or petitioners shall provide written notice
7 of that approval, including a copy of the petition to the department
8 and the state board.

9 (k) (1) The state board may, by mutual agreement, designate
10 its supervisory and oversight responsibilities for a charter school
11 approved by the state board to any local ~~education~~ *educational*
12 agency in the county in which the charter school is located or to
13 the governing board of the school district that first denied the
14 petition.

15 (2) The designated local ~~education~~ *educational* agency shall
16 have all monitoring and supervising authority of a chartering
17 agency, including, but not limited to, powers and duties set forth
18 in Section 47607, except the power of revocation, which shall
19 remain with the state board.

20 (3) A charter school that has been granted its charter through
21 an appeal to the state board and elects to seek renewal of its charter
22 shall, prior to expiration of the charter, submit its petition for
23 renewal to the governing board of the school district that initially
24 denied the charter. If the governing board of the school district
25 denies the school's petition for renewal, the school may petition
26 the state board for renewal of its charter.

27 (l) Teachers in charter schools shall hold a Commission on
28 Teacher Credentialing certificate, permit, or other document
29 equivalent to that which a teacher in other public schools would
30 be required to hold. These documents shall be maintained on file
31 at the charter school and are subject to periodic inspection by the
32 chartering authority. It is the intent of the Legislature that charter
33 schools be given flexibility with regard to noncore, noncollege
34 preparatory courses.

35 (m) A charter school shall transmit a copy of its annual,
36 independent financial audit report for the preceding fiscal year, as
37 described in subparagraph (I) of paragraph (5) of subdivision (b),
38 to its chartering entity, the Controller, the county superintendent
39 of schools of the county in which the charter school is sited, unless
40 the county board of education of the county in which the charter

1 school is sited is the chartering entity, and the department by
2 December 15 of each year. This subdivision does not apply if the
3 audit of the charter school is encompassed in the audit of the
4 chartering entity pursuant to Section 41020.

5 ~~SEC. 48.~~

6 *SEC. 47.* Section 48980 of the Education Code is amended to
7 read:

8 48980. (a) At the beginning of the first semester or quarter of
9 the regular school term, the governing board of each school district
10 shall notify the parent or guardian of a minor pupil regarding the
11 right or responsibility of the parent or guardian under Sections
12 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472,
13 and 51938 and Chapter 2.3 (commencing with Section 32255) of
14 Part 19 of Division 1 of Title 1.

15 (b) The notification also shall advise the parent or guardian of
16 the availability of individualized instruction as prescribed by
17 Section 48206.3, and of the program prescribed by Article 9
18 (commencing with Section 49510) of Chapter 9.

19 (c) The notification also shall advise the parents and guardians
20 of all pupils attending a school within the school district of the
21 schedule of minimum days and pupil-free staff development days,
22 and if minimum or pupil-free staff development days are scheduled
23 thereafter, the governing board of the district shall notify parents
24 and guardians of the affected pupils as early as possible, but not
25 later than one month before the scheduled minimum or pupil-free
26 day.

27 (d) The notification also may advise the parent or guardian of
28 the importance of investing for future college or university
29 education for their children and of considering appropriate
30 investment options, including, but not limited to, United States
31 savings bonds.

32 (e) The notification shall advise the parent or guardian of the
33 pupil that each pupil completing grade 12 is required to
34 successfully pass the high school exit examination administered
35 pursuant to Chapter 9 (commencing with Section 60850) of Part
36 33. The notification shall include, at a minimum, the date of the
37 examination, the requirements for passing the examination, and
38 shall inform the parents and guardians regarding the consequences
39 of not passing the examination and shall inform parents and
40 guardians that passing the examination is a condition of graduation.

1 (f) Each school district that elects to provide a fingerprinting
2 program pursuant to Article 10 (commencing with Section 32390)
3 of Chapter 3 of Part 19 of Division 1 of Title 1 shall inform parents
4 or guardians of the program as specified in Section 32390.

5 (g) The notification also shall include a copy of the written
6 policy of the school district on sexual harassment established
7 pursuant to Section 231.5, as it relates to pupils.

8 (h) The notification shall advise the parent or guardian of all
9 existing statutory attendance options and local attendance options
10 available in the school district. This notification component shall
11 include all options for meeting residency requirements for school
12 attendance, programmatic options offered within the local
13 attendance areas, and any special programmatic options available
14 on both an interdistrict and intradistrict basis. This notification
15 component also shall include a description of all options, a
16 description of the procedure for application for alternative
17 attendance areas or programs, an application form from the district
18 for requesting a change of attendance, and a description of the
19 appeals process available, if any, for a parent or guardian denied
20 a change of attendance. The notification component also shall
21 include an explanation of the existing statutory attendance options,
22 including, but not limited to, those available under Section 35160.5,
23 Chapter 5 (commencing with Section 46600) of Part 26, and
24 subdivision (b) of Section 48204. The department shall produce
25 this portion of the notification and shall distribute it to all school
26 districts.

27 (i) It is the intent of the Legislature that the governing board of
28 each school district annually review the enrollment options
29 available to the pupils within its district and that the districts strive
30 to make available enrollment options that meet the diverse needs,
31 potential, and interests of the pupils of California.

32 (j) The notification shall advise the parent or guardian that a
33 pupil shall not have his or her grade reduced or lose academic
34 credit for any absence or absences excused pursuant to Section
35 48205 if missed assignments and tests that can reasonably be
36 provided are satisfactorily completed within a reasonable period
37 of time, and shall include the full text of Section 48205.

38 (k) The notification shall advise the parent or guardian of the
39 availability of state funds to cover the costs of advanced placement
40 examination fees pursuant to Section 52244.

1 (l) The notification to the parent or guardian of a minor pupil
2 enrolled in any of grades 9 to 12, inclusive, also shall include the
3 information required pursuant to Section 51229.

4 ~~SEC. 49.~~

5 *SEC. 48.* Section 49423.5 of the Education Code is amended
6 to read:

7 49423.5. (a) Notwithstanding Section 49422, an individual
8 with exceptional needs who requires specialized physical health
9 care services, during the regular schoolday, may be assisted by
10 any of the following individuals:

11 (1) Qualified persons who possess an appropriate credential
12 issued pursuant to Section 44267 or 44267.5, or hold a valid
13 certificate of public health nursing issued by the Board of
14 Registered Nursing.

15 (2) Qualified designated school personnel trained in the
16 administration of specialized physical health care if they perform
17 those services under the supervision, as defined by Section 3051.12
18 of Title 5 of the California Code of Regulations, of a credentialed
19 school nurse, public health nurse, or licensed physician and surgeon
20 and the services are determined by the credentialed school nurse
21 or licensed physician and surgeon, in consultation with the
22 physician treating the pupil, to be all of the following:

23 (A) Routine for the pupil.

24 (B) Pose little potential harm for the pupil.

25 (C) Performed with predictable outcomes, as defined in the
26 individualized education program of the pupil.

27 (D) Do not require a nursing assessment, interpretation, or
28 decisionmaking by the designated school personnel.

29 (b) Specialized health care or other services that require
30 medically related training shall be provided pursuant to the
31 procedures prescribed by Section 49423.

32 (c) Persons providing specialized physical health care services
33 shall also demonstrate competence in basic cardiopulmonary
34 resuscitation and shall be knowledgeable of the emergency medical
35 resources available in the community in which the services are
36 performed.

37 (d) “Specialized physical health care services,” as used in this
38 section, includes catheterization, gastric tube feeding, suctioning,
39 or other services that require medically related training.

1 (e) Regulations necessary to implement this section shall be
2 developed jointly by the State Department of Education and the
3 State Department of Health Care Services, and adopted by the state
4 board.

5 (f) This section does not diminish or weaken any federal
6 requirement for serving individuals with exceptional needs under
7 the Individuals with Disabilities Education Act (20 U.S.C. Sec.
8 1400 et seq.), and its implementing regulations, and under Section
9 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and its
10 implementing regulations.

11 (g) This section does not affect current state law or regulation
12 regarding medication administration.

13 (h) It is the intent of the Legislature that this section not cause
14 individuals with exceptional needs to be placed at schoolsites other
15 than those they would attend but for their needs for specialized
16 physical health care services.

17 ~~SEC. 50.~~

18 *SEC. 49.* Section 49431.7 of the Education Code is amended
19 to read:

20 49431.7. (a) Commencing on July 1, 2009, a school or school
21 district, through a vending machine or school food service
22 establishment during school hours and one-half of an hour before
23 and after school hours, shall not make available to pupils enrolled
24 in kindergarten, or any of grades 1 to 12, inclusive, food containing
25 artificial trans fat, as defined in subdivision (b), or use food
26 containing artificial trans fat in the preparation of a food item
27 served to those pupils.

28 (b) For purposes of this section, a food contains artificial trans
29 fat if a food contains vegetable shortening, margarine, or any kind
30 of partially hydrogenated vegetable oil, unless the manufacturer's
31 documentation or the label required on the food, pursuant to
32 applicable federal and state law, lists the trans fat content as less
33 than 0.5 grams of trans fat per serving.

34 (c) For purposes of this section, "school food service
35 establishment" means a place that regularly sells or serves a food
36 item or meal on a school campus.

37 (d) This section does not apply to food provided as part of a
38 USDA meal program.

1 ~~SEC. 51.~~

2 *SEC. 50.* Section 51228 of the Education Code is amended to
3 read:

4 51228. (a) Each school district maintaining any of grades 7
5 to 12, inclusive, shall offer to all otherwise qualified pupils in those
6 grades a course of study fulfilling the requirements and
7 prerequisites for admission to the California public institutions of
8 postsecondary education and shall provide a timely opportunity
9 to each of those pupils to enroll within a four-year period in each
10 course necessary to fulfill those requirements and prerequisites
11 prior to graduation from high school.

12 (b) Each school district maintaining any of grades 7 to 12,
13 inclusive, shall offer to all otherwise qualified pupils in those
14 grades a course of study that provides an opportunity for those
15 pupils to attain entry-level employment skills in business or
16 industry upon graduation from high school. Districts are
17 encouraged to provide all pupils with a rigorous academic
18 curriculum that integrates academic and career skills, incorporates
19 applied learning in all disciplines, and prepares all pupils for high
20 school graduation and career entry.

21 (c) A school district that adopts a required curriculum that meets
22 or exceeds the model standards developed and adopted by the state
23 board pursuant to Section 51226 shall be deemed to have fulfilled
24 its responsibilities pursuant to subdivision (b).

25 (d) A school district that adopts a required curriculum pursuant
26 to subdivision (c) that meets or exceeds the model standards
27 developed by the state board pursuant to Section 51226, or that
28 adopts alternative means for pupils to complete the prescribed
29 course of study pursuant to subdivision (b) of Section 51225.3,
30 may substitute pupil demonstration of competence in the prescribed
31 subjects through a practical demonstration of these skills in a
32 regional occupational center or program, work experience,
33 interdisciplinary study, independent study, credit earned at a
34 postsecondary institution, or other outside school experience, as
35 prescribed by Section 51225.3.

36 ~~SEC. 52.~~

37 *SEC. 51.* Section 52244 of the Education Code is amended to
38 read:

39 52244. (a) There is hereby established a grant program for the
40 purpose of awarding grants to cover the costs of advanced

1 placement fees or International Baccalaureate examination fees,
2 or both, for eligible economically disadvantaged high school pupils.
3 The department shall administer this program.

4 (b) An “eligible economically disadvantaged high school pupil”
5 means a pupil who is either from a family whose annual household
6 income is below 200 percent of the federal poverty level or a pupil
7 who is eligible for a federal free or reduced-price meal program.

8 (c) A school district may apply to the department for grant
9 funding pursuant to this section, based on the number of
10 economically disadvantaged pupils in the district enrolled in
11 advanced placement courses who will take the next offered
12 advanced placement examinations. A school district that applies
13 to the department for this purpose shall designate school district
14 staff to whom pupils may submit applications for grants and shall
15 institute a plan to notify pupils of the availability of financial
16 assistance pursuant to this section. Grants shall be expended only
17 to pay the fees required of eligible economically disadvantaged
18 high school pupils to take an advanced placement or International
19 Baccalaureate examination, or both.

20 (d) An eligible economically disadvantaged high school pupil
21 who is enrolled in an advanced placement or International
22 Baccalaureate course, or both, may apply to the designated school
23 district staff for a grant pursuant to this section. A pupil who
24 receives a grant shall pay five dollars (\$5) of the examination fee.

25 (e) School districts and county superintendents of schools may
26 join together and form collaboratives or consortia in order to
27 participate in the grant program established by this section.

28 (f) Grants provided pursuant to this section may not be used to
29 supplant fee waivers available to low-income pupils who take
30 advanced placement or International Baccalaureate examinations.

31 (g) If the total school district applications exceed the total funds
32 available pursuant to this section, the department shall prorate the
33 grants based upon the ratio of the total amount requested to the
34 total amount budgeted by the state for this purpose. Funding
35 priority shall be given to advanced placement examination fees if
36 there is insufficient funding allocated for the grant program in a
37 given fiscal year.

38 (h) To facilitate program administration and school district
39 reimbursement, the department may enter into a contract with the
40 provider of advanced placement or International Baccalaureate

1 examinations. For purposes of the contract authorized pursuant to
2 this subdivision, the department is exempt from the requirements
3 of Part 2 (commencing with Section 10100) of Division 2 of the
4 Public Contract Code and from the requirements of Article 6
5 (commencing with Section 999) of Chapter 6 of Division 4 of the
6 Military and Veterans Code.

7 (i) The department shall make every effort to obtain and allocate
8 federal funding for the purposes of this program prior to expending
9 any state funds. All state and federal funds obtained by the
10 department for the purposes of this program shall be expended for
11 these purposes only and are prohibited from being used to fund
12 any other program.

13 (j) This section shall remain in effect only until January 1, 2013,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2013, deletes or extends that date.

16 ~~SEC. 53.~~

17 *SEC. 52.* Section 52499.66 of the Education Code is amended
18 to read:

19 52499.66. (a) The department shall be responsible for the
20 creation, as set forth in subdivision (b), of comprehensive, easy to
21 access, user-friendly Internet Web site pages with information
22 about opportunities and programs available in the state on career
23 technical education in elementary and secondary schools.

24 (b) (1) By July 1, 2008, the department shall select, on a
25 competitive basis, an elementary or secondary school career
26 technical education program for pupils to develop the Internet Web
27 site pages as part of a career technical education course of study
28 related to technology and Internet Web site development. The
29 program may be part of a school district or regional occupational
30 center or program course of study.

31 (2) The department shall establish criteria and parameters for
32 the content of the Internet Web site pages and shall provide
33 guidance to the selected career technical education design process.
34 The department periodically shall review the work of the design
35 process to ensure that all the criteria and legal considerations are
36 being met. By July 1, 2009, the selected program shall complete
37 the Internet Web site pages development project.

38 (3) By January 1, 2010, the Internet Web site pages on career
39 technical education required to be created pursuant to this section

1 shall be incorporated into the department’s Internet Web site as
2 an integral part of the existing department Internet Web site.

3 (4) The department shall establish criteria for the posting of
4 information and links on the Internet Web site and shall provide
5 ongoing Internet Web site administration and maintenance in
6 keeping with department policies. The department Internet Web
7 site may provide links to local and state public agencies, school
8 districts, regional occupational centers and programs, adult
9 education programs, and related career technical education
10 programs in order for pupils, parents, teachers, and the public to
11 easily access information.

12 (c) The career technical education Internet Web site pages
13 created pursuant to this section should provide pupils, parents,
14 guardians, teachers, counselors, administrators, business and
15 industry, and professional and trades representatives with
16 information regarding all of the following:

17 (1) Career technical education programs, possible course
18 offerings, and graduation requirements.

19 (2) High school career technical education skill certificates and
20 related postsecondary education, skill certificates, and
21 apprenticeship requirements and admissions information.

22 (3) Best practices in elementary and secondary school career
23 technical education programs and examples of successful
24 curriculum and programs, including career technical education
25 programs in high schools and regional occupational centers and
26 programs.

27 (4) State and federal workforce statistical data and how-to-use
28 data tips for educators and advisory committees on career technical
29 education.

30 (5) Access to information regarding business and industry
31 programs that may offer pupils and teachers support and internships
32 or summer work experience.

33 (6) Professional and trades organizations that may be available
34 to offer pupils and teachers support and internships or summer
35 work experience.

36 (7) Links to related resources.

37 (8) Career technical education model curriculum standards to
38 assist local educational agencies in the development of sequences
39 of courses, skills certificates, and assessment tools.

1 (9) Funding sources and ongoing state and federal program
2 guidelines, regulations, and funding opportunities.

3 (d) The career technical education Internet Web site pages
4 created pursuant to this section shall allow for redirection to school
5 district and public career technical education program Internet
6 Web sites for more specific information about the availability of
7 elementary and secondary school programs for pupils and teachers
8 and to community college and other postsecondary opportunities.

9 ~~SEC. 54.~~

10 *SEC. 53.* Section 52861 of the Education Code is amended to
11 read:

12 52861. If a school district and school choose to include within
13 the provisions of this article funds allocated pursuant to Article 4
14 (commencing with Section 8750) of Chapter 4 of Part 6 of Division
15 1 of Title 1, Article 5 (commencing with Section 44520) of Chapter
16 3 of Part 25 of Division 3 of this title, Article 15 (commencing
17 with Section 51870) of Chapter 5 of this part, and Article 2
18 (commencing with Section 52340) of Chapter 9 of this part, and
19 Chapter 1 (commencing with Section 500) of Part 2 of Division 2
20 of the Military and Veterans Code, the district shall determine the
21 portion of the district’s grants, pursuant to those provisions, which
22 shall be allocated to the school for inclusion in the school budget
23 developed pursuant to subdivision (f) of Section 52853.

24 ~~SEC. 55.~~

25 *SEC. 54.* Section 52922 of the Education Code is amended to
26 read:

27 52922. (a) From funds appropriated for the purpose of this
28 chapter, the Superintendent shall annually allocate to each school
29 district, on behalf of each high school or middle school within the
30 district that offers an International Baccalaureate Diploma Program,
31 the amount of up to twenty-five thousand dollars (\$25,000) for
32 each participating high school and middle school to cover the
33 ongoing costs of professional development required by the program
34 and to help pay the test fees for low- and middle-income pupils in
35 need of financial assistance, in accordance with criteria adopted
36 by the Superintendent.

37 (b) The amount provided in subdivision (a) shall be increased
38 annually by a cost-of-living adjustment, based on the same
39 percentage increase that is provided to the revenue limits of unified

1 school districts with 2,501 or more units of average daily
2 attendance.

3 (c) The total amount allocated pursuant to subdivision (a) shall
4 not exceed the total amount of the funds appropriated for those
5 purposes in the annual Budget Act or another statute. If funds are
6 insufficient to fully fund all grants authorized, annual grants shall
7 first be allocated pursuant to subdivision (a) to those schools that
8 were funded in the prior fiscal year and in the amount of the prior
9 fiscal year grant with second priority given to high schools and
10 middle schools that have the highest percentage of pupils from
11 low-income families.

12 ~~SEC. 56.~~

13 *SEC. 55.* Section 56030 of the Education Code is amended to
14 read:

15 56030. “Responsible local agency” means the school district
16 or county office of education designated in the local plan as the
17 administrative entity the duties of which shall include, but are not
18 limited to, receiving and distributing regionalized services funds,
19 providing administrative support, and coordinating the
20 implementation of the plan.

21 ~~SEC. 57.~~

22 *SEC. 56.* Section 56300 of the Education Code is amended to
23 read:

24 56300. A local educational agency shall actively and
25 systematically seek out all individuals with exceptional needs,
26 from birth to 21 years of age, inclusive, including children not
27 enrolled in public school programs, who reside in a school district
28 or are under the jurisdiction of a special education local plan area
29 or a county office of education.

30 ~~SEC. 58.~~

31 *SEC. 57.* Section 56302 of the Education Code is amended to
32 read:

33 56302. A local educational agency shall provide for the
34 identification and assessment of the exceptional needs of an
35 individual, and the planning of an instructional program to meet
36 the assessed needs. Identification procedures shall include
37 systematic methods of utilizing referrals of pupils from teachers,
38 parents, agencies, appropriate professional persons, and from other
39 members of the public. Identification procedures shall be
40 coordinated with schoolsite procedures for referral of pupils with

1 needs that cannot be met with modification of the regular
2 instructional program.

3 ~~SEC. 59.~~

4 *SEC. 58.* Section 56328 of the Education Code is amended to
5 read:

6 56328. Notwithstanding the provisions of this chapter, a special
7 education local plan area may utilize a schoolsite level and a
8 regional level service, as provided for under Section 56336.2 as it
9 read prior to July 28, 1980, to provide the services required by this
10 chapter.

11 ~~SEC. 60.~~

12 *SEC. 59.* Section 56331 of the Education Code is amended to
13 read:

14 56331. (a) A pupil who is suspected of needing mental health
15 services may be referred to a community mental health service in
16 accordance with Section 7576 of the Government Code.

17 (b) Prior to referring a pupil to a county mental health agency
18 for services, the local educational agency shall follow the
19 procedures set forth in Section 56320 and conduct an assessment
20 in accordance with Sections 300.301 to 300.306, inclusive, of Title
21 34 of the Code of Federal Regulations. If an individual with
22 exceptional needs is identified as potentially requiring mental
23 health services, the local educational agency shall request the
24 participation of the county mental health agency in the
25 individualized education program. A local educational agency
26 shall provide any specially designed instruction required by an
27 individualized education program, including related services such
28 as counseling services, parent counseling and training,
29 psychological services, or social work services in schools as
30 defined in Section 300.34 of Title 34 of the Code of Federal
31 Regulations. If the individualized education program of an
32 individual with exceptional needs includes a functional behavioral
33 assessment and behavior intervention plan, in accordance with
34 Section 300.530 of Title 34 of the Code of Federal Regulations,
35 the local educational agency shall provide documentation upon
36 referral to a county mental health agency. Local educational
37 agencies shall provide related services, by qualified personnel,
38 unless the individualized education program team designates a
39 more appropriate agency for the provision of services. Local
40 educational agencies and community mental health services shall

1 work collaboratively to ensure that assessments performed prior
2 to referral are as useful as possible to the community mental health
3 service agency in determining the need for mental health services
4 and the level of services needed.

5 ~~SEC. 61.~~

6 *SEC. 60.* Section 56341.1 of the Education Code is amended
7 to read:

8 56341.1. (a) When developing each pupil's individualized
9 education program, the individualized education program team
10 shall consider the following:

- 11 (1) The strengths of the pupil.
- 12 (2) The concerns of the parents or guardians for enhancing the
13 education of the pupil.
- 14 (3) The results of the initial assessment or most recent
15 assessment of the pupil.
- 16 (4) The academic, developmental, and functional needs of the
17 child.

18 (b) The individualized education program team shall do the
19 following:

- 20 (1) In the case of a pupil whose behavior impedes his or her
21 learning or that of others, consider the use of positive behavioral
22 interventions and supports, and other strategies, to address that
23 behavior.
- 24 (2) In the case of a pupil with limited English proficiency,
25 consider the language needs of the pupil as those needs relate to
26 the pupil's individualized education program.
- 27 (3) In the case of a pupil who is blind or visually impaired,
28 provide for instruction in braille, and the use of braille, unless the
29 individualized education program team determines, after an
30 assessment of the pupil's reading and writing skills, needs, and
31 appropriate reading and writing media, including an assessment
32 of the pupil's future needs for instruction in braille or the use of
33 braille, that instruction in braille or the use of braille is not
34 appropriate for the pupil.
- 35 (4) Consider the communication needs of the pupil, and in the
36 case of a pupil who is deaf or hard of hearing, consider the pupil's
37 language and communication needs, opportunities for direct
38 communications with peers and professional personnel in the
39 pupil's language and communication mode, academic level, and

1 full range of needs, including opportunities for direct instruction
2 in the pupil's language and communication mode.

3 (5) Consider whether the pupil requires assistive technology
4 devices and services as defined in Section 1401(1) and (2) of Title
5 20 of the United States Code.

6 (c) If, in considering the special factors described in subdivisions
7 (a) and (b), the individualized education program team determines
8 that a pupil needs a particular device or service, including an
9 intervention, accommodation, or other program modification, in
10 order for the pupil to receive a free appropriate public education,
11 the individualized education program team shall include a statement
12 to that effect in the pupil's individualized education program.

13 (d) The individualized education program team shall review the
14 pupil's individualized education program periodically, but not less
15 frequently than annually, to determine whether the annual goals
16 for the pupil are being achieved, and revise the individualized
17 education program, as appropriate, to address among other matters
18 the following:

19 (1) A lack of expected progress toward the annual goals and in
20 the general education curriculum, where appropriate.

21 (2) The results of any reassessment conducted pursuant to
22 Section 56381.

23 (3) Information about the pupil provided to, or by, the parents
24 or guardians, as described in subdivision (b) of Section 56381.

25 (4) The pupil's anticipated needs.

26 (5) Any other relevant matter.

27 (e) A regular education teacher of the pupil, who is a member
28 of the individualized education program team, shall participate,
29 consistent with Section 1414(d)(1)(C) of Title 20 of the United
30 States Code, in the review and revision of the individualized
31 education program of the pupil.

32 (f) The parent or guardian shall have the right to present
33 information to the individualized education program team in person
34 or through a representative and the right to participate in meetings,
35 relating to eligibility for special education and related services,
36 recommendations, and program planning.

37 (g) (1) Notwithstanding Section 632 of the Penal Code, the
38 parent or guardian or local educational agency shall have the right
39 to record electronically the proceedings of individualized education
40 program team meetings on an audiotape recorder. The parent or

1 guardian or local educational agency shall notify the members of
2 the individualized education program team of his, her, or its intent
3 to record a meeting at least 24 hours prior to the meeting. If the
4 local educational agency initiates the notice of intent to audiotape
5 record a meeting and the parent or guardian objects or refuses to
6 attend the meeting because it will be tape recorded, the meeting
7 shall not be recorded on an audiotape recorder.

8 (2) The Legislature hereby finds as follows:

9 (A) Under federal law, audiotape recordings made by a local
10 educational agency are subject to the federal Family Educational
11 Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g), and are
12 subject to the confidentiality requirements of the regulations under
13 Sections 300.610 to 300.626, inclusive, of Part 34 of the Code of
14 Federal Regulations.

15 (B) Parents or guardians have the right, pursuant to Sections
16 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal
17 Regulations, to do all of the following:

18 (i) Inspect and review the tape recordings.

19 (ii) Request that the tape recordings be amended if the parent
20 or guardian believes that they contain information that is inaccurate,
21 misleading, or in violation of the rights of privacy or other rights
22 of the individual with exceptional needs.

23 (iii) Challenge, in a hearing, information that the parent or
24 guardian believes is inaccurate, misleading, or in violation of the
25 individual's rights of privacy or other rights.

26 (h) It is the intent of the Legislature that the individualized
27 education program team meetings be nonadversarial and convened
28 solely for the purpose of making educational decisions for the good
29 of the individual with exceptional needs.

30 ~~SEC. 62.~~

31 *SEC. 61.* Section 56342.1 of the Education Code is amended
32 to read:

33 56342.1. Before a local educational agency places an individual
34 with exceptional needs in, or refers an individual to, a nonpublic,
35 nonsectarian school pursuant to Section 56365, the district, special
36 education local plan area, or county office of education shall initiate
37 and conduct a meeting to develop an individualized education
38 program in accordance with Sections 56341.1 and 56345 and in
39 accordance with Section 300.325(a) of Title 34 of the Code of
40 Federal Regulations.

1 ~~SEC. 63.~~

2 *SEC. 62.* Section 56363.5 of the Education Code is amended
3 to read:

4 56363.5. Local educational agencies may seek, either directly
5 or through the pupil’s parents or guardians, reimbursement from
6 insurance companies to cover the costs of related services, in
7 accordance with Section 300.154(d) to (h), inclusive, of the Code
8 of Federal Regulations.

9 ~~SEC. 64.~~

10 *SEC. 63.* Section 56366.1 of the Education Code is amended
11 to read:

12 56366.1. (a) A nonpublic, nonsectarian school or agency that
13 seeks certification shall file an application with the Superintendent
14 on forms provided by the department and include the following
15 information on the application:

16 (1) A description of the special education and designated
17 instruction and services provided to individuals with exceptional
18 needs if the application is for nonpublic, nonsectarian school
19 certification.

20 (2) A description of the designated instruction and services
21 provided to individuals with exceptional needs if the application
22 is for nonpublic, nonsectarian agency certification.

23 (3) A list of appropriately qualified staff, a description of the
24 credential, license, or registration that qualifies each staff member
25 rendering special education or designated instruction and services
26 to do so, and copies of their credentials, licenses, or certificates of
27 registration with the appropriate state or national organization that
28 has established standards for the service rendered.

29 (4) An annual operating budget.

30 (5) Affidavits and assurances necessary to comply with all
31 applicable federal, state, and local laws and regulations that include
32 criminal record summaries required of all nonpublic, nonsectarian
33 school or agency personnel having contact with minor children
34 under Section 44237.

35 (b) (1) The applicant shall provide the special education local
36 plan area in which the applicant is located with the written
37 notification of its intent to seek certification or renewal of its
38 certification. The applicant shall submit on a form, developed by
39 the department, a signed verification by local educational agency
40 representatives that they have been notified of the intent to certify

1 or renew certification. The verification shall include a statement
2 that representatives of the local educational agency for the area in
3 which the applicant is located have had the opportunity to review
4 the application at least 60 calendar days prior to submission of an
5 initial application to the Superintendent, or at least 30 calendar
6 days prior to submission of a renewal application to the
7 Superintendent. The signed verification shall provide assurances
8 that local educational agency representatives have had the
9 opportunity to provide input on all required components of the
10 application.

11 (2) If the applicant has not received a response from the local
12 educational agency 60 calendar days from the date of the return
13 receipt for initial applications or 30 calendar days from the date
14 of the return receipt for renewal applications, the applicant may
15 file the application with the Superintendent. A copy of the return
16 receipt shall be included with the application as verification of
17 notification efforts to the local educational agency.

18 (3) The department shall mail renewal application materials to
19 certified nonpublic, nonsectarian schools and agencies at least 120
20 days prior to the date their current certification expires.

21 (c) If the applicant operates a facility or program on more than
22 one site, each site shall be certified.

23 (d) If the applicant is part of a larger program or facility on the
24 same site, the Superintendent shall consider the effect of the total
25 program on the applicant. A copy of the policies and standards for
26 the nonpublic, nonsectarian school or agency and the larger
27 program shall be available to the Superintendent.

28 (e) Prior to certification, the Superintendent shall conduct an
29 onsite review of the facility and program for which the applicant
30 seeks certification. The Superintendent may be assisted by
31 representatives of the special education local plan area in which
32 the applicant is located and a nonpublic, nonsectarian school or
33 agency representative who does not have a conflict of interest with
34 the applicant. The Superintendent shall conduct an additional onsite
35 review of the facility and program within three years of the
36 effective date of the certification, unless the Superintendent
37 conditionally certifies the school or agency or unless the
38 Superintendent receives a formal complaint against the school or
39 agency. In the latter two cases, the Superintendent shall conduct
40 an onsite review at least annually.

1 (f) The Superintendent shall make a determination on an
2 application within 120 days of receipt of the application and shall
3 certify, conditionally certify, or deny certification to the applicant.
4 If the Superintendent fails to take one of these actions within 120
5 days, the applicant is automatically granted conditional certification
6 for a period terminating on August 31 of the current school year.
7 If certification is denied, the Superintendent shall provide reasons
8 for the denial. The Superintendent may certify the school or agency
9 for a period of not longer than one year.

10 (g) Certification becomes effective on the date the nonpublic,
11 nonsectarian school or agency meets all the application
12 requirements and is approved by the Superintendent. Certification
13 may be retroactive if the school or agency met all the requirements
14 of this section on the date the retroactive certification is effective.
15 Certification expires on December 31 of the terminating year.

16 (h) The Superintendent annually shall review the certification
17 of each nonpublic, nonsectarian school and agency. For this
18 purpose, a certified school or agency annually shall update its
19 application between August 1 and October 31, unless the board
20 grants a waiver pursuant to Section 56101. The Superintendent
21 may conduct an onsite review as part of the annual review.

22 (i) (1) The Superintendent shall conduct an investigation of a
23 nonpublic, nonsectarian school or agency onsite at any time without
24 prior notice if there is substantial reason to believe that there is an
25 immediate danger to the health, safety, or welfare of a child. The
26 Superintendent shall document the concern and submit it to the
27 nonpublic, nonsectarian school or agency at the time of the onsite
28 investigation. The Superintendent shall require a written response
29 to any noncompliance or deficiency found.

30 (2) With respect to a nonpublic, nonsectarian school, the
31 Superintendent shall conduct an investigation, which may include
32 an unannounced onsite visit, if the Superintendent receives
33 evidence of a significant deficiency in the quality of educational
34 services provided, a violation of Section 56366.9, or
35 noncompliance with the policies expressed by subdivision (b) of
36 Section 1501 of the Health and Safety Code by the nonpublic,
37 nonsectarian school. The Superintendent shall document the
38 complaint and the results of the investigation and shall provide
39 copies of the documentation to the complainant, the nonpublic,
40 nonsectarian school, and the contracting local educational agency.

1 (3) Violations or noncompliance documented pursuant to
2 paragraph (1) or (2) shall be reflected in the status of the
3 certification of the school, at the discretion of the Superintendent,
4 pending an approved plan of correction by the nonpublic,
5 nonsectarian school. The department shall retain for a period of
6 10 years all violations pertaining to certification of the nonpublic,
7 nonsectarian school or agency.

8 (j) The Superintendent shall monitor the facilities, the
9 educational environment, and the quality of the educational
10 program, including the teaching staff, the credentials authorizing
11 service, the standards-based core curriculum being employed, and
12 the standard-focused instructional materials used, of an existing
13 certified nonpublic, nonsectarian school or agency on a three-year
14 cycle, as follows:

15 (1) The nonpublic, nonsectarian school or agency shall complete
16 a self-review in year one.

17 (2) The Superintendent shall conduct an onsite review of the
18 nonpublic, nonsectarian school or agency in year two.

19 (3) The Superintendent shall conduct a followup visit to the
20 nonpublic, nonsectarian school or agency in year three.

21 (k) (1) Notwithstanding any other provision of law, the
22 Superintendent shall not certify a nonpublic, nonsectarian school
23 or agency that proposes to initiate or expand services to pupils
24 currently educated in the immediate prior fiscal year in a juvenile
25 court program, community school pursuant to Section 56150, or
26 other nonspecial education program, including independent study
27 or adult school, or both, unless the nonpublic, nonsectarian school
28 or agency notifies the county superintendent of schools and the
29 special education local plan area in which the proposed new or
30 expanded nonpublic, nonsectarian school or agency is located of
31 its intent to seek certification.

32 (2) The notification shall occur no later than the December 1
33 prior to the new fiscal year in which the proposed or expanding
34 school or agency intends to initiate services. The notice shall
35 include the following:

36 (A) The specific date upon which the proposed nonpublic,
37 nonsectarian school or agency is to be established.

38 (B) The location of the proposed program or facility.

39 (C) The number of pupils proposed for services, the number of
40 pupils currently served in the juvenile court, community school,

1 or other nonspecial education program, the current school services
2 including special education and related services provided for these
3 pupils, and the specific program of special education and related
4 services to be provided under the proposed program.

5 (D) The reason for the proposed change in services.

6 (E) The number of staff who will provide special education and
7 designated instruction and services and hold a current valid
8 California credential or license in the service rendered.

9 (3) In addition to the requirements in subdivisions (a) to (f),
10 inclusive, the Superintendent shall require and consider the
11 following in determining whether to certify a nonpublic,
12 nonsectarian school or agency as described in this subdivision:

13 (A) A complete statement of the information required as part
14 of the notice under paragraph (1).

15 (B) Documentation of the steps taken in preparation for the
16 conversion to a nonpublic, nonsectarian school or agency, including
17 information related to changes in the population to be served and
18 the services to be provided pursuant to each pupil's individualized
19 education program.

20 (4) Notwithstanding any other provision of law, the certification
21 becomes effective no earlier than July 1 if the school or agency
22 provided the notification required pursuant to paragraph (1).

23 (l) (1) Notwithstanding any other provision of law, the
24 Superintendent shall not certify or renew the certification of a
25 nonpublic, nonsectarian school or agency, unless all of the
26 following conditions are met:

27 (A) The entity operating the nonpublic, nonsectarian school or
28 agency maintains separate financial records for each entity that it
29 operates, with each nonpublic, nonsectarian school or agency
30 identified separately from any licensed children's institution that
31 it operates.

32 (B) The entity submits an annual budget that identifies the
33 projected costs and revenues for each entity and demonstrates that
34 the rates to be charged are reasonable to support the operation of
35 the entity.

36 (C) The entity submits an entitywide annual audit that identifies
37 its costs and revenues, by entity, in accordance with generally
38 accepted accounting and auditing principles. The audit shall clearly
39 document the amount of moneys received and expended on the
40 education program provided by the nonpublic, nonsectarian school.

1 (D) The relationship between various entities operated by the
 2 same entity are documented, defining the responsibilities of the
 3 entities. The documentation shall clearly identify the services to
 4 be provided as part of each program, for example, the residential
 5 or medical program, the mental health program, or the educational
 6 program. The entity shall not seek funding from a public agency
 7 for a service, either separately or as part of a package of services,
 8 if the service is funded by another public agency, either separately
 9 or as part of a package of services.

10 (2) For purposes of this section, “licensed children’s institution”
 11 has the same meaning as it is defined by Section 56155.5.

12 (m) The school or agency shall be charged a reasonable fee for
 13 certification. The Superintendent may adjust the fee annually
 14 commensurate with the statewide average percentage inflation
 15 adjustment computed for revenue limits of unified school districts
 16 with greater than 1,500 units of average daily attendance if the
 17 percentage increase is reflected in the district revenue limit for
 18 inflation purposes. For purposes of this section, the base fee shall
 19 be the following:

20

21	(1) 1-5 pupils.....	\$ 300
22	(2) 6-10 pupils.....	500
23	(3) 11-24 pupils.....	1,000
24	(4) 25-75 pupils.....	1,500
25	(5) 76 pupils and over.....	2,000

26

27 The school or agency shall pay this fee when it applies for
 28 certification and when it updates its application for annual renewal
 29 by the Superintendent. The Superintendent shall use these fees to
 30 conduct onsite reviews, which may include field experts. No fee
 31 shall be refunded if the application is withdrawn or is denied by
 32 the Superintendent.

33 (n) (1) Notwithstanding any other provision of law, only those
 34 nonpublic, nonsectarian schools and agencies that provide special
 35 education and designated instruction and services utilizing staff
 36 who hold a certificate, permit, or other document equivalent to
 37 that which staff in a public school are required to hold in the service
 38 rendered are eligible to receive certification. Only those nonpublic,
 39 nonsectarian schools or agencies located outside of California that
 40 employ staff who hold a current valid credential or license to render

1 special education and related services as required by that state shall
2 be eligible to be certified.

3 (2) The board shall develop regulations to implement this
4 subdivision.

5 (o) In addition to meeting the standards adopted by the board,
6 a nonpublic, nonsectarian school or agency shall provide written
7 assurances that it meets all applicable standards relating to fire,
8 health, sanitation, and building safety.

9 ~~SEC. 65.~~

10 *SEC. 64.* Section 56426.6 of the Education Code is amended
11 to read:

12 56426.6. (a) Early education services shall be provided by a
13 local educational agency through a transdisciplinary team
14 consisting of a group of professionals from various disciplines,
15 agencies, and parents who shall share their expertise and services
16 to provide appropriate services for infants and their families. Each
17 team member shall be responsible for providing and coordinating
18 early education services for one or more infants and their families,
19 and shall serve as a consultant to other team members and as a
20 provider of appropriate related services to other infants in the
21 program.

22 (b) Credentialed personnel with expertise in vision or hearing
23 impairments shall be made available by the local educational
24 agency to early education programs serving infants identified in
25 accordance with subdivision (a), (b), or (d) of Section 3030 of
26 Title 5 of the California Code of Regulations, and shall be the
27 primary providers of services under those programs whenever
28 possible.

29 (c) Transdisciplinary teams may include, but need not be limited
30 to, qualified persons from the following disciplines:

31 (1) Early childhood special education.

32 (2) Speech and language therapy.

33 (3) Nursing, with a skill level not less than that of a registered
34 nurse.

35 (4) Social work, psychology, or mental health.

36 (5) Occupational therapy.

37 (6) Physical therapy.

38 (7) Audiology.

39 (8) Parent-to-parent support.

1 (d) A person who is authorized by the local educational agency
2 to provide early education or related services to infants shall have
3 appropriate experience in normal and atypical infant development
4 and an understanding of the unique needs of families of infants
5 with exceptional needs, or, absent that experience and
6 understanding, shall undergo a comprehensive training plan for
7 that purpose, which plan shall be developed and implemented as
8 part of the staff development component of the local plan for early
9 education services.

10 ~~SEC. 66.~~

11 *SEC. 65.* Section 56431 of the Education Code is amended to
12 read:

13 56431. The Superintendent shall develop procedures and
14 criteria to enable a local educational agency to contract with private
15 nonprofit preschools or child development centers to provide
16 special education and related services to infants and preschool age
17 individuals with exceptional needs. The criteria shall include
18 minimum standards that the private, nonprofit preschool or center
19 shall be required to meet.

20 ~~SEC. 67.~~

21 *SEC. 66.* Section 56456 of the Education Code is amended to
22 read:

23 56456. It is the intent of the Legislature that local educational
24 agencies may use any state or local special education funds for
25 approved vocational programs, services, and activities to satisfy
26 the excess cost-matching requirements for receipt of federal
27 vocational education funds for individuals with exceptional needs.

28 ~~SEC. 68.~~

29 *SEC. 67.* Section 56476 of the Education Code is amended to
30 read:

31 56476. The Governor or designee of the Governor, in
32 accordance with Section 1412(a)(12) of Title 20 of the United
33 States Code and Section 300.154 of Title 34 of the Code of Federal
34 Regulations, shall ensure that each agency under the Governor's
35 jurisdiction enters into an interagency agreement with the
36 Superintendent to ensure that all services that are needed to ensure
37 a free appropriate public education are provided.

38 ~~SEC. 69.~~

39 *SEC. 68.* Section 56504 of the Education Code is amended to
40 read:

1 56504. The parent shall have the right and opportunity to
2 examine all school records of his or her child and to receive copies
3 pursuant to this section and to Section 49065 within five business
4 days after the request is made by the parent, either orally or in
5 writing. The public agency shall comply with a request for school
6 records without unnecessary delay before any meeting regarding
7 an individualized education program or any hearing pursuant to
8 Section 300.121, 300.301, 300.304, or 300.507 of Title 34 of the
9 Code of Federal Regulations or resolution session pursuant to
10 Section 300.510 of Title 34 of the Code of Federal Regulations
11 and in no case more than five business days after the request is
12 made orally or in writing. The parent shall have the right to a
13 response from the public agency to reasonable requests for
14 explanations and interpretations of the records. If a school record
15 includes information on more than one pupil, the parents of those
16 pupils have the right to inspect and review only the information
17 relating to their child or to be informed of that specific information.
18 A public agency shall provide a parent, on request of the parent,
19 a list of the types and locations of school records collected,
20 maintained, or used by the agency. A public agency may charge
21 no more than the actual cost of reproducing the records, but if this
22 cost effectively prevents the parent from exercising the right to
23 receive the copy or copies, the copy or copies shall be reproduced
24 at no cost.

25 ~~SEC. 70.~~

26 *SEC. 69.* Section 56851 of the Education Code is amended to
27 read:

28 56851. (a) In developing the individualized education program
29 for an individual residing in a state hospital who is eligible for
30 services under the federal Individuals with Disabilities Education
31 Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall include on
32 its interdisciplinary team a representative of the local educational
33 agency in which the state hospital is located, and the individual's
34 state hospital teacher, depending on whether the state hospital is
35 otherwise working with the local educational agency for the
36 provision of special education programs and related services to
37 individuals with exceptional needs residing in state hospitals.
38 However, if a district or special education local plan area that is
39 required by this section to provide a representative from the district

1 or special education local plan area does not do so, the county
2 office of education shall provide a representative.

3 (b) The state hospital shall reimburse the local educational
4 agency for the costs, including salary, of providing the
5 representative.

6 (c) Once the individual is enrolled in the community program,
7 the local educational agency providing special education shall be
8 responsible for reviewing and revising the individualized education
9 program with the participation of a representative of the state
10 hospital and the parent. The public agency responsible for the
11 individualized education program shall be responsible for all
12 individual protections, including notification and due process.

13 ~~SEC. 71.~~

14 *SEC. 70.* Section 66018.55 of the Education Code is amended
15 to read:

16 66018.55. (a) As used in this section, “college and university”
17 includes all institutions of public higher education and all
18 independent institutions of higher education.

19 (b) The Office of Privacy Protection in the Department of
20 Consumer Affairs shall establish a task force to conduct a review
21 of the use by all colleges and universities of social security numbers
22 in order to recommend practices to minimize the collection, use,
23 storage, and retention of social security numbers in relation to
24 academic and operational needs and applicable legal requirements.

25 (c) The task force shall be known as the “College and University
26 Social Security Number Task Force.” The Office of Privacy
27 Protection shall determine the composition of the task force, which
28 shall include, but not be limited to, all of the following:

29 (1) Two representatives from each of the three institutions of
30 public higher education.

31 (2) Two representatives of the California Association of
32 Independent Colleges and Universities.

33 (3) Two representatives each from two organizations devoted
34 to the protection of personal privacy.

35 (4) One representative from a national organization devoted to
36 the management of information technology in higher education.

37 (5) One representative from the business community with
38 expertise in technological solutions to privacy concerns.

39 (6) One representative each from the Assembly Committee on
40 Judiciary and the Senate Committee on Judiciary.

- 1 (d) The task force shall seek input, as deemed necessary and
2 appropriate, from all of the following:
- 3 (1) Representatives of organizations with expertise in technical
4 policy and practices of Internet disclosure, privacy policy relevant
5 to Internet disclosure, and fostering public integrity and
6 accountability.
- 7 (2) The constituencies of the college and university
8 communities, including students, staff, and faculty.
- 9 (e) The task force shall review and make recommendations to
10 minimize the collection, use, storage, and retention of social
11 security numbers by California colleges and universities and shall
12 include, but not be limited to, all of the following:
- 13 (1) A survey of best practices at colleges and universities and
14 the costs of implementing those best practices.
- 15 (2) The necessary use and protection of social security numbers
16 for all of the following:
- 17 (A) Research purposes.
- 18 (B) Academic purposes, including, but not limited to, academic
19 research, admission, financial aid, and other related operational
20 uses.
- 21 (C) Operational uses by academic medical centers, including,
22 but not limited to, patient identification, tracking, and care.
- 23 (D) Business purposes, including, but not limited to, the
24 provision of employee benefits, tax purposes, loan programs, and
25 other requirements imposed by current state and federal statutes
26 and regulations.
- 27 (E) Another operational need of the college or university.
- 28 (3) Current personal privacy protections provided to students,
29 applicants, staff, and faculty of colleges and universities.
- 30 (4) Existing state and federal legal requirements, including
31 regulatory requirements, mandating the use of social security
32 numbers at colleges and universities.
- 33 (5) The possible use of personal identifiers or other substitutes
34 for social security numbers that protect personal information and
35 meet the operational needs of colleges and universities.
- 36 (6) The cost of funding any recommendations presented by the
37 task force, including those that are of minimal cost and can be
38 implemented immediately and those that require additional funding
39 or time to implement.

1 (f) The task force shall commence meetings no later than May
2 1, 2008.

3 (g) (1) On or before July 1, 2010, the task force shall submit a
4 final report of its findings and recommendations to the Office of
5 Privacy Protection, and to the Assembly Committee on Judiciary
6 and the Senate Committee on Judiciary.

7 (2) The final report shall also include a list of the existing uses
8 of social security numbers common among colleges and
9 universities for routine operations and compliance with state and
10 federal laws.

11 (3) The findings and recommendations of the task force shall
12 be informational only and shall not be binding on any college or
13 university.

14 ~~SEC. 72.~~

15 *SEC. 71.* The heading of Part 40.5 (commencing with Section
16 67500) of Division 5 of Title 3 of the Education Code is amended
17 to read:

18

19 PART 40.5. CAPITAL OUTLAY REQUIREMENTS

20

21 ~~SEC. 73.~~

22 *SEC. 72.* Section 69551 of the Education Code is amended to
23 read:

24 69551. (a) The Legislature finds and declares all of the
25 following:

26 (1) The Cash for College Program has successfully established
27 local regional partnerships that annually provide hands-on help in
28 filling out financial aid forms necessary to receive financial
29 assistance for college. This program was initiated by private
30 foundations and the Student Aid Commission in 2002 with the
31 goal of increasing the number of students who successfully
32 complete the financial aid process and enroll in college. In 2007,
33 the Cash for College Program succeeded in serving over 20,000
34 students and their families in 44 of the 58 counties in California,
35 thereby helping the state to access tens of millions of dollars in
36 federal Pell Grant financial aid for low-income students and
37 increasing the number of students participating in the state's Cal
38 Grant program.

39 (2) The intersegmental cooperative nature of the Cash for
40 College Program has proved to be a highly effective mechanism

1 to coordinate existing services and to foster the cooperation of the
2 various educational segments, community, and business partners
3 involved.

4 (3) The Cash for College Program has been successful because
5 of the financial and volunteer contributions of local partners in
6 private business and industry, the financial aid, admissions, and
7 outreach communities, and student groups. Additional funding has
8 been provided through these local and regional partnerships, and
9 through one million five hundred thousand dollars (\$1,500,000)
10 in private foundation grant funds that have supported the initial
11 development of the program, as well as funded local scholarships
12 offered to workshop participants who complete the financial aid
13 process by the state filing deadline.

14 (4) The Cash for College Program has assisted high school and
15 community college students whose families were unfamiliar with
16 the financial aid process. The program focuses on assisting students
17 and their families who are first- or second-generation college-bound
18 students who have little or no access to college advising because
19 of limited resources at the schoolsite or the perception that college
20 is not an option.

21 (5) The Cash for College Program seeks to provide all California
22 students who desire to attend college the opportunity to enroll by
23 providing tangible assistance in accessing the available state and
24 federal resources to make higher education possible.

25 (6) A college or postsecondary education is a requirement for
26 a working wage job. The wage disparity between a high school
27 graduate and a college graduate is one million dollars (\$1,000,000)
28 over an individual's lifespan.

29 (7) California reflects the ethnic and cultural diversity of today's
30 world. Evidence of this change is most pronounced within our
31 public elementary and secondary education system. As California
32 continues into the 21st century, there is no single group that
33 represents a majority of elementary and secondary enrollment.
34 These changing demographics present great challenges and great
35 opportunities.

36 (8) California must invest in higher education and in the future
37 of its young people so they can acquire skills and knowledge
38 necessary to continue the state's economic recovery.

1 (9) The Cash for College Program provides access to the college
2 financial aid process for students of varied backgrounds and
3 socioeconomic status.

4 (b) (1) Beginning January 1, 2008, the Cash for College
5 Program is established and is administered by the Student Aid
6 Commission, in partnership with private business and industry and
7 local community and educational organizations. The Student Aid
8 Commission may allocate funds for support of local Cash for
9 College financial aid workshop efforts that are designed to
10 accomplish the following goals:

11 (A) Targeted outreach to, and assistance for, low-income and
12 first-generation college-bound students with state and federal
13 financial aid applications.

14 (B) Targeted outreach to, and assistance for, students who are
15 enrolled in schools or geographic regions with low college
16 eligibility or participation rates, with state and federal financial
17 aid applications.

18 (2) The projects and organizations funded under this article shall
19 implement the following activities:

20 (A) Organize and conduct free local and regional workshops
21 that help students and families to fill out the Free Application for
22 Federal Student Aid (FAFSA) and the Cal Grant GPA verification
23 form required for Cal Grants.

24 (B) Convene advisory board meetings to develop regional
25 partnerships with local partners in private business and industry,
26 admissions and outreach communities, and student groups, to foster
27 financial and volunteer contributions.

28 (c) The Student Aid Commission shall, by December 1 of each
29 year, provide a report to the fiscal and policy committees of the
30 Legislature on the Cash for College Program detailing program
31 data, expenditures, and the findings of an independent evaluation
32 on the extent to which program goals have been met. Program data
33 shall include the number of completed FAFSA applications, the
34 number of submitted grade point average verifications, and the
35 number of Cal Grant recipients using their Cal Grant awards at
36 California postsecondary institutions.

37 (d) The Student Aid Commission shall contract with an external
38 evaluator to conduct the independent evaluation.

39 (e) (1) The commission may accept voluntary contributions or
40 donations in cash to pay for the costs of implementing the program

1 pursuant to this article. Voluntary contributions shall be deposited
2 into the Cash for College Fund, which is hereby created in the
3 State Treasury. Only moneys contributed or donated for the
4 purposes of this article may be deposited into the fund. The fund
5 shall be credited with all investment income earned by moneys in
6 the fund. The moneys received in contributions or donations for
7 the purposes of this article are not part of the General Fund as
8 defined in Section 16300 of the Government Code. Voluntary
9 contributions or donations are special funds held in trust for
10 purposes of meeting the purposes of this article. Notwithstanding
11 Section 13340 of the Government Code, moneys in the fund from
12 voluntary contributions or donations are hereby continuously
13 appropriated to the commission without regard to fiscal year for
14 the purposes enumerated in this article.

15 (2) Additional funds may be appropriated in the annual Budget
16 Act for the purposes of this article.

17 (f) (1) As used in this subdivision, “regional coordinating
18 organization” means a coalition of entities led by a designated
19 organization, which may include nonprofit organizations, local
20 education or other government agencies, or public or private higher
21 education institutions.

22 (2) The Student Aid Commission shall allocate funds to regional
23 coordinating organizations to plan, coordinate, or conduct Cash
24 for College workshop series within specified regions within the
25 state.

26 (3) The Student Aid Commission shall require a regional
27 coordinating organization to contribute equal or greater resources
28 to match the Cash for College funds allocated to it by the
29 commission. Funds allocated to a regional coordinating
30 organization under this subdivision shall be based on demonstrated
31 ability to contribute equal or greater matching resources or funds.
32 The Student Aid Commission may require advance payment, if it
33 determines that it is necessary to ensure that funds provided
34 pursuant to this article are available each year before the start of
35 the program.

36 (4) The Student Aid Commission may partner with regional
37 coordinating organizations or other entities to facilitate additional
38 nonstate funding or donations of property, or both, for the Cash
39 for College Program.

1 (5) Notwithstanding Section 11005 of the Government Code,
2 the Student Aid Commission may accept gifts of personal property
3 without approval of the Director of Finance.

4 (g) The commission may use the moneys appropriated for the
5 program, including reasonable administrative costs, marketing,
6 and external evaluation. Administrative costs shall include
7 appropriate staffing to support the program, including, but not
8 limited to, a Cash for College coordinator. The commission shall
9 annually establish the total amount of funding to assist regional
10 coordinating organizations. Allocation of funds shall be established
11 based upon the best use of funding for that year, as determined by
12 the commission in consultation with a Cash for College statewide
13 advisory board that may include, but is not limited to, partners in
14 private business and industry, admissions, outreach communities,
15 and student groups.

16 ~~SEC. 74.~~

17 *SEC. 73.* Section 71095 of the Education Code is amended to
18 read:

19 71095. (a) The chancellor's office, in consultation with the
20 Governor's Office of Emergency Services and the Office of
21 Homeland Security, shall, by January 1, 2009, develop emergency
22 preparedness standards and guidelines to assist community college
23 districts and campuses in the event of a natural disaster, hazardous
24 condition, or terrorist activity on or around a community college
25 campus.

26 (b) The standards and guidelines shall be developed in
27 accordance with the Standardized Emergency Management System
28 and the National Incident Management System, and shall be
29 reviewed by the Governor's Office of Emergency Services in a
30 manner that is consistent with existing policy. In developing the
31 standards and guidelines, the chancellor's office shall consider,
32 but is not limited to, all of the following components:

33 (1) Information on establishing a campus emergency
34 management team.

35 (2) Provisions regarding overview training for every employee
36 within one year of commencement of employment.

37 (3) Information on specialized training for employees who may
38 be designated as part of an emergency management team.

39 (4) Information on preparedness, prevention, response, recovery,
40 and mitigation policies and procedures.

1 (5) Information on coordinating with the appropriate local, state,
2 and federal government authorities, and nongovernmental entities
3 on comprehensive emergency management and preparedness
4 activities.

5 ~~SEC. 75.~~

6 *SEC. 74.* Section 13001 of the Elections Code is amended to
7 read:

8 13001. All expenses authorized and necessarily incurred in the
9 preparation for, and conduct of, elections as provided in this code
10 shall be paid from the county treasuries, except that when an
11 election is called by the governing body of a city the expenses
12 shall be paid from the treasury of the city. All payments shall be
13 made in the same manner as other county or city expenditures are
14 made. The elections official, in providing the materials required
15 by this division, need not utilize the services of the county or city
16 purchasing agent.

17 ~~SEC. 76.~~

18 *SEC. 75.* Section 1520 of the Financial Code is amended to
19 read:

20 1520. It is the intent of the Legislature that the provisions of
21 this article, insofar as they are contained in the regulations
22 regarding fiduciary activities of national banks (Part 9
23 (commencing with Section 9.1) of Title 12 of the Code of Federal
24 Regulations) of the Office of the Comptroller of the Currency,
25 conform, and be interpreted by anyone construing the provisions
26 of this article to so conform, to those regulations, any rule or
27 interpretation promulgated thereunder by the Office of the
28 Comptroller of the Currency, and to any interpretation issued by
29 an official or employee of the Office of the Comptroller of the
30 Currency duly authorized to issue the interpretation.

31 ~~SEC. 77.~~

32 *SEC. 76.* Section 50700 of the Financial Code is amended to
33 read:

34 50700. (a) A residential mortgage lender, or a person or
35 employee acting under the authority of a residential mortgage
36 lender’s license, shall not provide brokerage services to a borrower,
37 except as provided in subdivision (c).

38 (b) “Brokerage services” means either of the following:

39 (1) Obtaining or attempting to obtain, on behalf of a borrower,
40 a residential mortgage loan, as defined in subdivision (o) of Section

1 50003, secured by residential real estate, as defined in subdivision
2 (t) of Section 50003, made with the funds of another institutional
3 lender, as defined in paragraphs (1), (2), and (4) of subdivision (j)
4 of Section 50003, and closed in the name of that lender, for a fee
5 paid by the borrower or the institutional lender.

6 (2) Obtaining or attempting to obtain, on behalf of a borrower,
7 a residential mortgage loan, as defined in subdivision (o) of Section
8 50003, secured by residential real estate, as defined in subdivision
9 (t) of Section 50003, made with the funds of another institutional
10 lender, as defined in paragraphs (1), (2), and (4) of subdivision (j)
11 of Section 50003, but closed in the name of the licensee, for a fee
12 paid by the borrower or the institutional lender.

13 (c) A residential mortgage lender may provide brokerage
14 services under the authority of its license, if the lender first enters
15 into a written brokerage agreement with the borrower that satisfies
16 the requirements of Section 50701.

17 (d) This chapter does not authorize a licensee to do any of the
18 following:

19 (1) Provide brokerage services through independent contractors.

20 (2) Obtain or attempt to obtain for a borrower a residential
21 mortgage loan that is a “high cost mortgage,” referred to in Section
22 152(aa)(1) of the Home Ownership and Equity Protection Act of
23 1994, as amended (15 U.S.C. Sec. 1602 (aa)).

24 (3) Hold itself out to borrowers, through advertising, as a
25 mortgage broker, rather than a residential mortgage lender.
26 However, a licensee shall disclose its status as a broker or agent
27 when that disclosure is required by law.

28 (4) Perform activity subject to Section 10131 of the Business
29 and Professions Code, except activities authorized by this division.

30 ~~SEC. 78.~~

31 *SEC. 77.* Section 8235 of the Fish and Game Code is amended
32 to read:

33 8235. (a) The owner of a permitted vessel, or that owner’s
34 agent, may apply for renewal of the permit annually on or before
35 April 30, upon payment of the fees established under subdivision
36 (b), without penalty. Upon receipt of the application and fees, the
37 department shall issue the permit for use of the permitted vessel
38 in the subsequent permit year only to the owner of the permitted
39 vessel.

1 (b) The department shall fix the annual fee for the renewal of
2 the permit in an amount it determines to be necessary to pay the
3 reasonable costs of implementing and administering this article.

4 (c) If an owner to whom a permit has been issued, or that
5 owner's agent, applies for renewal of the permit, the application
6 for renewal shall be received or, if mailed, postmarked, on or before
7 April 30. An application received or, if mailed, postmarked, after
8 April 30 shall be assessed a late fee subject to Section 7852.2. The
9 department shall issue the permit for use of the permitted vessel
10 in the subsequent permit year.

11 (d) The department shall suspend a late fee otherwise due under
12 subdivision (c) and shall issue a permit for use of the permitted
13 vessel in the subsequent permit year if the department is unable
14 to accept applications for renewal of permits by March 1.

15 (e) Except as provided in subdivision (c), the department shall
16 not renew a permit for which the application for renewal is not
17 received, or, if mailed, is received or postmarked after expiration
18 of the permit.

19 ~~SEC. 79.~~

20 *SEC. 78.* Section 3352 of the Food and Agricultural Code is
21 amended to read:

22 3352. (a) The authority shall be governed by a board of
23 directors, which shall be composed of the Secretary of Food and
24 Agriculture, the Director of Finance, the Director of General
25 Services, and four individuals, appointed as provided in paragraph
26 (1), who are members of the Board of Directors of the California
27 Exposition and State Fair. The Treasurer and Controller shall be
28 members of the board of the authority only for the purposes of
29 hearing and deciding upon matters related to the issuance of
30 revenue bonds pursuant to this chapter. The Director of Finance
31 shall serve as chairperson of the authority. All meetings of the
32 authority shall be open and public.

33 (1) Of the four appointed members of the Board of Directors
34 of the California Exposition and State Fair, one shall be appointed
35 by the Speaker of the Assembly, one shall be appointed by the
36 Senate Committee on Rules, and two shall be appointed by the
37 Governor.

38 (2) The authority may contract with consultants as approved by
39 the board of the authority. The authority shall not employ any other
40 staff.

1 (3) The general manager of the California Exposition and State
2 Fair may serve only in an advisory capacity to the authority.

3 (b) The authority is a “department” for the purposes of hearings
4 pursuant to Article 2 (commencing with Section 11180) of Chapter
5 2 of Part 1 of Division 3 of Title 2 of the Government Code.

6 ~~SEC. 80.~~

7 *SEC. 79.* Section 3357 of the Food and Agricultural Code is
8 amended to read:

9 3357. (a) In leasing, or entering into agreements for the use
10 of, the State Fair Race Track or other property owned or controlled
11 by the California Exposition and State Fair, the authority shall
12 follow the same procedures, as appropriate, as the Department of
13 General Services follows in leasing or entering into similar
14 agreements for other state real property. The authority shall also
15 consult with, and present for comment the lease or agreement to,
16 the governing bodies of the City and County of Sacramento prior
17 to awarding the lease or entering into the agreement.

18 (b) Prior to awarding a lease of, or entering into an agreement
19 for the use of, the State Fair Race Track or other property owned
20 or controlled by the California Exposition and State Fair, the
21 authority shall consider all the factors concerning appropriate
22 capital improvements of the race track, the financing of the race
23 track, additional racing opportunities, and the use of new or
24 additional properties or facilities, including, but not limited to, a
25 grandstand or grandstand improvements, which factors shall be
26 considered in the award of the lease or entering into the agreement.
27 The authority shall also consult with, and present for comment the
28 lease or agreement to, the governing bodies of the City and County
29 of Sacramento prior to awarding the lease or entering into the
30 agreement.

31 ~~SEC. 81.~~

32 *SEC. 80.* Section 20755 of the Food and Agricultural Code is
33 amended to read:

34 20755. The owner of a recorded brand may, on or before April
35 30 of any year, pay in advance to the bureau a sum that is a multiple
36 of sixty dollars (\$60). The payment entitles him or her to use the
37 brand for a minimum of two years, but not to exceed 10 years, at
38 the rate of thirty dollars (\$30) per year on and after April 1 of that
39 year. If the advance payment is made, biennial renewals for the

1 years within the period for which advance payment has been made
2 are not required.

3 ~~SEC. 82.~~

4 *SEC. 81.* Section 3502.5 of the Government Code is amended
5 to read:

6 3502.5. (a) Notwithstanding Section 3502, any other provision
7 of this chapter, or any other law, rule, or regulation, an agency
8 shop agreement may be negotiated between a public agency and
9 a recognized public employee organization that has been
10 recognized as the exclusive or majority bargaining agent pursuant
11 to reasonable rules and regulations, ordinances, and enactments,
12 in accordance with this chapter. As used in this chapter, “agency
13 shop” means an arrangement that requires an employee, as a
14 condition of continued employment, either to join the recognized
15 employee organization or to pay the organization a service fee in
16 an amount not to exceed the standard initiation fee, periodic dues,
17 and general assessments of the organization.

18 (b) In addition to the procedure prescribed in subdivision (a),
19 an agency shop arrangement between the public agency and a
20 recognized employee organization that has been recognized as the
21 exclusive or majority bargaining agent shall be placed in effect,
22 without a negotiated agreement, upon (1) a signed petition of 30
23 percent of the employees in the applicable bargaining unit
24 requesting an agency shop agreement and an election to implement
25 an agency fee arrangement, and (2) the approval of a majority of
26 employees who cast ballots and vote in a secret ballot election in
27 favor of the agency shop agreement. The petition may be filed
28 only after the recognized employee organization has requested the
29 public agency to negotiate on an agency shop arrangement and,
30 beginning seven working days after the public agency received
31 this request, the two parties have had 30 calendar days to attempt
32 good faith negotiations in an effort to reach agreement. An election
33 that may not be held more frequently than once a year shall be
34 conducted by the Division of Conciliation of the Department of
35 Industrial Relations in the event that the public agency and the
36 recognized employee organization cannot agree within 10 days
37 from the filing of the petition to select jointly a neutral person or
38 entity to conduct the election. In the event of an agency fee
39 arrangement outside of an agreement that is in effect, the
40 recognized employee organization shall indemnify and hold the

1 public agency harmless against any liability arising from a claim,
2 demand, or other action relating to the public agency's compliance
3 with the agency fee obligation.

4 (c) An employee who is a member of a bona fide religion, body,
5 or sect that has historically held conscientious objections to joining
6 or financially supporting public employee organizations shall not
7 be required to join or financially support a public employee
8 organization as a condition of employment. The employee may
9 be required, in lieu of periodic dues, initiation fees, or agency shop
10 fees, to pay sums equal to the dues, initiation fees, or agency shop
11 fees to a nonreligious, nonlabor charitable fund exempt from
12 taxation under Section 501(c)(3) of the Internal Revenue Code,
13 chosen by the employee from a list of at least three of these funds,
14 designated in a memorandum of understanding between the public
15 agency and the public employee organization, or if the
16 memorandum of understanding fails to designate the funds, then
17 to a fund of that type chosen by the employee. Proof of the
18 payments shall be made on a monthly basis to the public agency
19 as a condition of continued exemption from the requirement of
20 financial support to the public employee organization.

21 (d) An agency shop provision in a memorandum of
22 understanding that is in effect may be rescinded by a majority vote
23 of all the employees in the unit covered by the memorandum of
24 understanding, provided that: (1) a request for that type of vote is
25 supported by a petition containing the signatures of at least 30
26 percent of the employees in the unit, (2) the vote is by secret ballot,
27 and (3) the vote may be taken at any time during the term of the
28 memorandum of understanding, but in no event shall there be more
29 than one vote taken during that term. Notwithstanding the above,
30 the public agency and the recognized employee organization may
31 negotiate, and by mutual agreement provide for, an alternative
32 procedure or procedures regarding a vote on an agency shop
33 agreement. The procedures in this subdivision are also applicable
34 to an agency shop agreement placed in effect pursuant to
35 subdivision (b).

36 (e) An agency shop arrangement shall not apply to management
37 employees.

38 (f) A recognized employee organization that has agreed to an
39 agency shop provision or is a party to an agency shop arrangement
40 shall keep an adequate itemized record of its financial transactions

1 and shall make available annually, to the public agency with which
2 the agency shop provision was negotiated, and to the employees
3 who are members of the organization, within 60 days after the end
4 of its fiscal year, a detailed written financial report thereof in the
5 form of a balance sheet and an operating statement, certified as to
6 accuracy by its president and treasurer or corresponding principal
7 officer, or by a certified public accountant. An employee
8 organization required to file financial reports under the federal
9 Labor-Management Reporting and Disclosure Act of 1959 (29
10 U.S.C. Sec. 401 et seq.) covering employees governed by this
11 chapter, or required to file financial reports under Section 3546.5,
12 may satisfy the financial reporting requirement of this section by
13 providing the public agency with a copy of the financial reports.

14 ~~SEC. 83.~~

15 *SEC. 82.* Section 3517.8 of the Government Code is amended
16 to read:

17 3517.8. (a) If a memorandum of understanding has expired,
18 and the Governor and the recognized employee organization have
19 not agreed to a new memorandum of understanding and have not
20 reached an impasse in negotiations, subject to subdivision (b), the
21 parties to the agreement shall continue to give effect to the
22 provisions of the expired memorandum of understanding,
23 including, but not limited to, all provisions that supersede existing
24 law, any arbitration provisions, any no strike provisions, any
25 agreements regarding matters covered in the Fair Labor Standards
26 Act of 1938 (29 U.S.C. Sec. 201 et seq.), and any provisions
27 covering fair share fee deduction consistent with Section 3515.7.

28 (b) If the Governor and the recognized employee organization
29 reach an impasse in negotiations for a new memorandum of
30 understanding, the state employer may implement any or all of its
31 last, best, and final offer. Any proposal in the state employer's
32 last, best, and final offer that, if implemented, would conflict with
33 existing statutes or require the expenditure of funds shall be
34 presented to the Legislature for approval and, if approved, shall
35 be controlling without further legislative action, notwithstanding
36 Sections 3517.5, 3517.6, and 3517.7. Implementation of the last,
37 best, and final offer does not relieve the parties of the obligation
38 to bargain in good faith and reach an agreement on a memorandum
39 of understanding if circumstances change, and does not waive

1 rights that the recognized employee organization has under this
2 chapter.

3 ~~SEC. 84.~~

4 *SEC. 83.* Section 3543 of the Government Code is amended
5 to read:

6 3543. (a) Public school employees shall have the right to form,
7 join, and participate in the activities of employee organizations of
8 their own choosing for the purpose of representation on all matters
9 of employer-employee relations. Public school employees shall
10 have the right to represent themselves individually in their
11 employment relations with the public school employer, except that
12 once the employees in an appropriate unit have selected an
13 exclusive representative and it has been recognized pursuant to
14 Section 3544.1 or certified pursuant to Section 3544.7, an employee
15 in that unit shall not meet and negotiate with the public school
16 employer. If the exclusive representative of a unit provides
17 notification, as specified by subdivision (a) of Section 3546, public
18 school employees who are in a unit for which an exclusive
19 representative has been selected, shall be required, as a condition
20 of continued employment, to join the recognized employee
21 organization or to pay the organization a fair share services fee,
22 as required by Section 3546. If a majority of the members of a
23 bargaining unit rescind that arrangement, either of the following
24 options shall be applicable:

25 (1) The recognized employee organization may petition for the
26 reinstatement of the arrangement described in subdivision (a) of
27 Section 3546 pursuant to the procedures in paragraph (2) of
28 subdivision (d) of Section 3546.

29 (2) The employees may negotiate either of the two forms of
30 organizational security described in subdivision (i) of Section
31 3540.1.

32 (b) An employee may at any time present grievances to his or
33 her employer, and have those grievances adjusted, without the
34 intervention of the exclusive representative, as long as the
35 adjustment is reached prior to arbitration pursuant to Sections
36 3548.5, 3548.6, 3548.7, and 3548.8 and the adjustment is not
37 inconsistent with the terms of a written agreement then in effect,
38 provided that the public school employer shall not agree to a
39 resolution of the grievance until the exclusive representative has

1 received a copy of the grievance and the proposed resolution and
2 has been given the opportunity to file a response.

3 ~~SEC. 85.~~

4 *SEC. 84.* Section 7267.2 of the Government Code is amended
5 to read:

6 7267.2. (a) (1) Prior to adopting a resolution of necessity
7 pursuant to Section 1245.230 of the Code of Civil Procedure and
8 initiating negotiations for the acquisition of real property, the public
9 entity shall establish an amount that it believes to be just
10 compensation therefor, and shall make an offer to the owner or
11 owners of record to acquire the property for the full amount so
12 established, unless the owner cannot be located with reasonable
13 diligence. The offer may be conditioned upon the legislative body’s
14 ratification of the offer by execution of a contract of acquisition
15 or adoption of a resolution of necessity or both. The amount shall
16 not be less than the public entity’s approved appraisal of the fair
17 market value of the property. A decrease or increase in the fair
18 market value of real property to be acquired prior to the date of
19 valuation caused by the public improvement for which the property
20 is acquired, or by the likelihood that the property would be acquired
21 for the improvement, other than that due to physical deterioration
22 within the reasonable control of the owner or occupant, shall be
23 disregarded in determining the compensation for the property.

24 (2) At the time of making the offer described in paragraph (1),
25 the public entity shall provide the property owner with an
26 informational pamphlet detailing the process of eminent domain
27 and the property owner’s rights under the Eminent Domain Law.

28 (b) The public entity shall provide the owner of real property
29 to be acquired with a written statement of, and summary of the
30 basis for, the amount it established as just compensation. The
31 written statement and summary shall contain detail sufficient to
32 indicate clearly the basis for the offer, including, but not limited
33 to, all of the following information:

34 (1) The date of valuation, highest and best use, and applicable
35 zoning of property.

36 (2) The principal transactions, reproduction or replacement cost
37 analysis, or capitalization analysis, supporting the determination
38 of value.

39 (3) If appropriate, the just compensation for the real property
40 acquired and for damages to remaining real property shall be

1 separately stated and shall include the calculations and narrative
2 explanation supporting the compensation, including any offsetting
3 benefits.

4 (c) Where the property involved is owner-occupied residential
5 property and contains no more than four residential units, the
6 homeowner shall, upon request, be allowed to review a copy of
7 the appraisal upon which the offer is based. The public entity may,
8 but is not required to, satisfy the written statement, summary, and
9 review requirements of this section by providing the owner a copy
10 of the appraisal on which the offer is based.

11 (d) Notwithstanding subdivision (a), a public entity may make
12 an offer to the owner or owners of record to acquire real property
13 for less than an amount that it believes to be just compensation
14 therefor if (1) the real property is offered for sale by the owner at
15 a specified price less than the amount the public entity believes to
16 be just compensation therefor, (2) the public entity offers a price
17 that is equal to the specified price for which the property is being
18 offered by the landowner, and (3) no federal funds are involved
19 in the acquisition, construction, or project development.

20 (e) As used in subdivision (d), “offered for sale” means any of
21 the following:

22 (1) Directly offered by the landowner to the public entity for a
23 specified price in advance of negotiations by the public entity.

24 (2) Offered for sale to the general public at an advertised or
25 published specified price, set no more than six months prior to,
26 and still available at, the time the public entity initiates contact
27 with the landowner regarding the public entity’s possible
28 acquisition of the property.

29 ~~SEC. 86.~~

30 *SEC. 85.* Section 7576 of the Government Code is amended
31 to read:

32 7576. (a) The State Department of Mental Health, or a
33 community mental health service, as described in Section 5602 of
34 the Welfare and Institutions Code, designated by the State
35 Department of Mental Health, is responsible for the provision of
36 mental health services, as defined in regulations by the State
37 Department of Mental Health, developed in consultation with the
38 State Department of Education, if required in the individualized
39 education program of a pupil. A local educational agency is not
40 required to place a pupil in a more restrictive educational

1 environment in order for the pupil to receive the mental health
2 services specified in his or her individualized education program
3 if the mental health services can be appropriately provided in a
4 less restrictive setting. It is the intent of the Legislature that the
5 local educational agency and the community mental health service
6 vigorously attempt to develop a mutually satisfactory placement
7 that is acceptable to the parent and addresses the educational and
8 mental health treatment needs of the pupil in a manner that is cost
9 effective for both public agencies, subject to the requirements of
10 state and federal special education law, including the requirement
11 that the placement be appropriate and in the least restrictive
12 environment. For purposes of this section, “parent” is as defined
13 in Section 56028 of the Education Code.

14 (b) A local educational agency, individualized education
15 program team, or parent may initiate a referral for assessment of
16 the social and emotional status of a pupil, pursuant to Section
17 56320 of the Education Code. Based on the results of assessments
18 completed pursuant to Section 56320 of the Education Code, an
19 individualized education program team may refer a pupil who has
20 been determined to be an individual with exceptional needs, as
21 defined in Section 56026 of the Education Code, and who is
22 suspected of needing mental health services to a community mental
23 health service if the pupil meets all of the criteria in paragraphs
24 (1) to (5), inclusive. Referral packages shall include all
25 documentation required in subdivision (c), and shall be provided
26 immediately to the community mental health service.

27 (1) The pupil has been assessed by school personnel in
28 accordance with Article 2 (commencing with Section 56320) of
29 Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code.
30 Local educational agencies and community mental health services
31 shall work collaboratively to ensure that assessments performed
32 prior to referral are as useful as possible to the community mental
33 health service in determining the need for mental health services
34 and the level of services needed.

35 (2) The local educational agency has obtained written parental
36 consent for the referral of the pupil to the community mental health
37 service, for the release and exchange of all relevant information
38 between the local educational agency and the community mental
39 health service, and for the observation of the pupil by mental health
40 professionals in an educational setting.

1 (3) The pupil has emotional or behavioral characteristics that
2 satisfy all of the following:

3 (A) Are observed by qualified educational staff in educational
4 and other settings, as appropriate.

5 (B) Impede the pupil from benefiting from educational services.

6 (C) Are significant as indicated by their rate of occurrence and
7 intensity.

8 (D) Are associated with a condition that cannot be described
9 solely as a social maladjustment or a temporary adjustment
10 problem, and cannot be resolved with short-term counseling.

11 (4) As determined using educational assessments, the pupil's
12 functioning, including cognitive functioning, is at a level sufficient
13 to enable the pupil to benefit from mental health services.

14 (5) The local educational agency, pursuant to Section 56331 of
15 the Education Code, has provided appropriate counseling and
16 guidance services, psychological services, parent counseling and
17 training, or social work services to the pupil pursuant to Section
18 56363 of the Education Code, or behavioral intervention as
19 specified in Section 56520 of the Education Code, as specified in
20 the individualized education program and the individualized
21 education program team has determined that the services do not
22 meet the educational needs of the pupil, or, in cases where these
23 services are clearly inadequate or inappropriate to meet the
24 educational needs of the pupil, the individualized education
25 program team has documented which of these services were
26 considered and why they were determined to be inadequate or
27 inappropriate.

28 (c) If referring a pupil to a community mental health service in
29 accordance with subdivision (b), the local educational agency or
30 the individualized education program team shall provide the
31 following documentation:

32 (1) Copies of the current individualized education program, all
33 current assessment reports completed by school personnel in all
34 areas of suspected disabilities pursuant to Article 2 (commencing
35 with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title
36 2 of the Education Code, and other relevant information, including
37 reports completed by other agencies.

38 (2) A copy of the parent's consent obtained as provided in
39 paragraph (2) of subdivision (b).

1 (3) A summary of the emotional or behavioral characteristics
2 of the pupil, including documentation that the pupil meets the
3 criteria set forth in paragraphs (3) and (4) of subdivision (b).

4 (4) A description of the counseling, psychological, and guidance
5 services, and other interventions that have been provided to the
6 pupil, as provided in the individualized education program of the
7 pupil, including the initiation, duration, and frequency of these
8 services, or an explanation of the reasons a service was considered
9 for the pupil and determined to be inadequate or inappropriate to
10 meet his or her educational needs.

11 (d) Based on preliminary results of assessments performed
12 pursuant to Section 56320 of the Education Code, a local
13 educational agency may refer a pupil who has been determined to
14 be, or is suspected of being, an individual with exceptional needs,
15 and is suspected of needing mental health services, to a community
16 mental health service if a pupil meets the criteria in paragraphs (1)
17 and (2). Referral packages shall include all documentation required
18 in subdivision (e) and shall be provided immediately to the
19 community mental health service.

20 (1) The pupil meets the criteria in paragraphs (2) to (4),
21 inclusive, of subdivision (b).

22 (2) Counseling and guidance services, psychological services,
23 parent counseling and training, social work services, and behavioral
24 or other interventions as provided in the individualized education
25 program of the pupil are clearly inadequate or inappropriate in
26 meeting his or her educational needs.

27 (e) If referring a pupil to a community mental health service in
28 accordance with subdivision (d), the local educational agency shall
29 provide the following documentation:

30 (1) Results of preliminary assessments to the extent they are
31 available and other relevant information including reports
32 completed by other agencies.

33 (2) A copy of the parent's consent obtained as provided in
34 paragraph (2) of subdivision (b).

35 (3) A summary of the emotional or behavioral characteristics
36 of the pupil, including documentation that the pupil meets the
37 criteria in paragraphs (3) and (4) of subdivision (b).

38 (4) Documentation that appropriate related educational and
39 designated instruction and services have been provided in

1 accordance with Sections 300.34 and 300.39 of Title 34 of the
2 Code of Federal Regulations.

3 (5) An explanation of the reasons that counseling and guidance
4 services, psychological services, parent counseling and training,
5 social work services, and behavioral or other interventions as
6 provided in the individualized education program of the pupil are
7 clearly inadequate or inappropriate in meeting his or her
8 educational needs.

9 (f) The procedures set forth in this chapter are not designed for
10 use in responding to psychiatric emergencies or other situations
11 requiring immediate response. In these situations, a parent may
12 seek services from other public programs or private providers, as
13 appropriate. This subdivision does not change the identification
14 and referral responsibilities imposed on local educational agencies
15 under Article 1 (commencing with Section 56300) of Chapter 4
16 of Part 30 of Division 4 of Title 2 of the Education Code.

17 (g) Referrals shall be made to the community mental health
18 service in the county in which the pupil lives. If the pupil has been
19 placed into residential care from another county, the community
20 mental health service receiving the referral shall forward the
21 referral immediately to the community mental health service of
22 the county of origin, which shall have fiscal and programmatic
23 responsibility for providing or arranging for the provision of
24 necessary services. The procedures described in this subdivision
25 shall not delay or impede the referral and assessment process.

26 (h) A county mental health agency does not have fiscal or legal
27 responsibility for costs it incurs prior to the approval of an
28 individualized education program, except for costs associated with
29 conducting a mental health assessment.

30 ~~SEC. 87.~~

31 *SEC. 86.* Section 7585 of the Government Code is amended
32 to read:

33 7585. (a) Whenever a department or local agency designated
34 by that department fails to provide a related service or designated
35 instruction and service required pursuant to Section 7575 or 7576,
36 and specified in the pupil's individualized education program, the
37 parent, adult pupil, if applicable, or a local educational agency
38 referred to in this chapter, shall submit a written notification of
39 the failure to provide the service to the Superintendent of Public

1 Instruction or the Secretary of California Health and Human
2 Services.

3 (b) When either the Superintendent or the secretary receives a
4 written notification of the failure to provide a service as specified
5 in subdivision (a), a copy shall immediately be transmitted to the
6 other party. The Superintendent, or his or her designee, and the
7 secretary, or his or her designee, shall meet to resolve the issue
8 within 15 calendar days of receipt of the notification. A written
9 copy of the meeting resolution shall be mailed to the parent, the
10 local educational agency, and affected departments, within 10 days
11 of the meeting.

12 (c) If the issue cannot be resolved within 15 calendar days to
13 the satisfaction of the Superintendent and the secretary, they shall
14 jointly submit the issue in writing to the Director of the Office of
15 Administrative Hearings, or his or her designee, in the Department
16 of General Services.

17 (d) The Director of the Office of Administrative Hearings, or
18 his or her designee, shall review the issue and submit his or her
19 findings in the case to the Superintendent and the secretary within
20 30 calendar days of receipt of the case. The decision of the director,
21 or his or her designee, shall be binding on the departments and
22 their designated agencies who are parties to the dispute.

23 (e) If the meeting, conducted pursuant to subdivision (b), fails
24 to resolve the issue to the satisfaction of the parent or local
25 educational agency, either party may appeal to the director, whose
26 decision shall be the final administrative determination and binding
27 on all parties.

28 (f) Whenever notification is filed pursuant to subdivision (a),
29 the pupil affected by the dispute shall be provided with the
30 appropriate related service or designated instruction and service
31 pending resolution of the dispute, if the pupil had been receiving
32 the service. The Superintendent and the secretary shall ensure that
33 funds are available for the provision of the service pending
34 resolution of the issue pursuant to subdivision (e).

35 (g) This section does not prevent a parent or adult pupil from
36 filing for a due process hearing under Section 7586.

37 (h) The contract between the State Department of Education
38 and the Office of Administrative Hearings for conducting due
39 process hearings shall include payment for services rendered by

1 the Office of Administrative Hearings which are required by this
2 section.

3 ~~SEC. 88.~~

4 *SEC. 87.* Section 8588.1 of the Government Code is amended
5 to read:

6 8588.1. (a) The Legislature finds and declares that this state
7 can only truly be prepared for the next disaster if the public and
8 private sector collaborate.

9 (b) The Office of Emergency Services may include, as
10 appropriate, private businesses and nonprofit organizations within
11 its responsibilities to prepare the state for disasters under this
12 chapter. All participation by businesses and nonprofit associations
13 in this program shall be voluntary.

14 (c) The office may do any of the following:

15 (1) Provide guidance to business and nonprofit organizations
16 representing business interests on how to integrate private sector
17 emergency preparedness measures into governmental disaster
18 planning programs.

19 (2) Conduct outreach programs to encourage business to work
20 with governments and community associations to better prepare
21 the community and their employees to survive and recover from
22 disasters.

23 (3) Develop systems so that government, businesses, and
24 employees can exchange information during disasters to protect
25 themselves and their families.

26 (4) Develop programs so that businesses and government can
27 work cooperatively to advance technology that will protect the
28 public during disasters.

29 (d) The office may share facilities and systems for purposes of
30 subdivision (b) with the private sector to the extent the costs for
31 their use are reimbursed by the private sector.

32 (e) Proprietary information or information protected by state or
33 federal privacy laws shall not be disclosed under this program.

34 (f) Notwithstanding Section 11005, donations and private grants
35 may be accepted by the office and shall not be subject to Section
36 11005.

37 (g) The Disaster Resistant Communities Fund is hereby created
38 in the State Treasury. Upon appropriation by the Legislature, the
39 Director of the Office of Emergency Services may expend the
40 moneys in the account for the costs associated with this section.

1 (h) This section shall be implemented only to the extent that
2 in-kind contributions or donations are received from the private
3 sector, or grant funds are received from the federal government,
4 for these purposes.

5 ~~SEC. 89.~~

6 *SEC. 88.* Section 8592.1 of the Government Code is amended
7 to read:

8 8592.1. For purposes of this article, the following terms have
9 the following meanings:

10 (a) “Backward compatibility” means that the equipment is able
11 to function with older, existing equipment.

12 (b) “Committee” means the Public Safety Radio Strategic
13 Planning Committee, which was established in December 1994 in
14 recognition of the need to improve existing public radio systems
15 and to develop interoperability among public safety departments
16 and between state public safety departments and local or federal
17 entities, and which consists of representatives of the following
18 state entities:

19 (1) The Office of Emergency Services, who shall serve as
20 chairperson.

21 (2) The Department of the California Highway Patrol.

22 (3) The Department of Transportation.

23 (4) The Department of Corrections and Rehabilitation.

24 (5) The Department of Parks and Recreation.

25 (6) The Department of Fish and Game.

26 (7) The Department of Forestry and Fire Protection.

27 (8) The Department of Justice.

28 (9) The Department of Water Resources.

29 (10) The State Department of Public Health.

30 (11) The Emergency Medical Services Authority.

31 (12) The Department of General Services.

32 (13) The Office of Homeland Security.

33 (14) The Military Department.

34 (15) The Department of Finance.

35 (c) “First response agencies” means public agencies that, in the
36 early states of an incident, are responsible for, among other things,
37 the protection and preservation of life, property, evidence, and the
38 environment, including, but not limited to, state fire agencies, state
39 and local emergency medical services agencies, local sheriffs’

1 departments, municipal police departments, county and city fire
2 departments, and police and fire protection districts.

3 (d) “Nonproprietary equipment or systems” means equipment
4 or systems that are able to function with another manufacturer’s
5 equipment or system regardless of type or design.

6 (e) “Open architecture” means a system that can accommodate
7 equipment from various vendors because it is not a proprietary
8 system.

9 (f) “Public safety radio subscriber” means the ultimate end user.
10 Subscribers include individuals or organizations, including, for
11 example, local police departments, fire departments, and other
12 operators of a public safety radio system. Typical subscriber
13 equipment includes end instruments, including mobile radios,
14 hand-held radios, mobile repeaters, fixed repeaters, transmitters,
15 or receivers that are interconnected to utilize assigned public safety
16 communications frequencies.

17 (g) “Public safety spectrum” means the spectrum allocated by
18 the Federal Communications Commission for operation of
19 interoperable and general use radio communication systems for
20 public safety purposes within the state.

21 ~~SEC. 90.~~

22 *SEC. 89.* Section 8879.50 of the Government Code is amended
23 to read:

24 8879.50. (a) As used in this chapter and in Chapter 12.49
25 (commencing with Section 8879.20), the following terms have the
26 following meanings:

27 (1) “Commission” means the California Transportation
28 Commission.

29 (2) “Department” means the Department of Transportation.

30 (3) “Administrative agency” means the state agency responsible
31 for programming bond funds made available by Chapter 12.49
32 (commencing with Section 8879.20), as specified in subdivision
33 (c).

34 (4) Unless otherwise specified in this chapter, “project” includes
35 equipment purchase, construction, right-of-way acquisition, and
36 project delivery costs.

37 (5) “Recipient agency” means the recipient of bond funds made
38 available by Chapter 12.49 (commencing with Section 8879.20)
39 that is responsible for implementation of an approved project.

1 (6) “Fund” shall have the same meaning as in subdivision (c)
2 of Section 8879.20.

3 (b) Administrative costs, including audit and program oversight
4 costs for agencies, commissions, or departments administering
5 programs funded pursuant to this chapter, recoverable by bond
6 funds shall not exceed 3 percent of the program’s cost.

7 (c) The administrative agency for each bond account is as
8 follows:

9 (1) The commission is the administrative agency for the Corridor
10 Mobility Improvement Account; the Trade Corridors Improvement
11 Fund; the Transportation Facilities Account; the State Route 99
12 Account; the State-Local Partnership Program Account; the Local
13 Bridge Seismic Retrofit Account; the Highway-Railroad Crossing
14 Safety Account; and the Highway Safety, Rehabilitation, and
15 Preservation Account.

16 (2) The Office of Homeland Security and the Office of
17 Emergency Services are the administrative agencies for the Port
18 and Maritime Security Account and the Transit System Safety,
19 Security, and Disaster Response Account.

20 (3) The department is the administrative agency for the Public
21 Transportation Modernization, Improvement, and Service
22 Enhancement Account.

23 (d) The administrative agency shall not approve project fund
24 allocations for a project until the recipient agency provides a project
25 funding plan that demonstrates that the funds are expected to be
26 reasonably available and sufficient to complete the project. The
27 administrative agency may approve funding for usable project
28 segments only if the benefits associated with each individual
29 segment are sufficient to meet the objectives of the program from
30 which the individual segment is funded.

31 (e) Guidelines adopted by the administrative agency pursuant
32 to this chapter and Chapter 12.49 (commencing with Section
33 8879.20) are intended to provide internal guidance for the agency
34 and shall be exempt from the Administrative Procedure Act
35 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
36 Division 3), and shall do all of the following:

37 (1) Provide for the audit of project expenditures and outcomes.

38 (2) Require that the useful life of the project be identified as
39 part of the project nomination process.

1 (3) Require that project nominations have project delivery
2 milestones, including, but not limited to, start and completion dates
3 for environmental clearance, land acquisition, design, construction
4 bid award, construction completion, and project closeout, as
5 applicable.

6 (f) (1) As a condition for allocation of funds to a specific project
7 under Chapter 12.49 (commencing with Section 8879.20), the
8 administrative agency shall require the recipient agency to report,
9 on a semiannual basis, on the activities and progress made toward
10 implementation of the project. The administrative agency shall
11 forward the report to the Department of Finance by means approved
12 by the Department of Finance. The purpose of the report is to
13 ensure that the project is being executed in a timely fashion, and
14 is within the scope and budget identified when the decision was
15 made to fund the project. If it is anticipated that project costs will
16 exceed the approved project budget, the recipient agency shall
17 provide a plan to the administrative agency for achieving the
18 benefits of the project by either downscoping the project to remain
19 within budget or by identifying an alternative funding source to
20 meet the cost increase. The administrative agency may either
21 approve the corrective plan or direct the recipient agency to modify
22 its plan.

23 (2) Within six months of the project becoming operable, the
24 recipient agency shall provide a report to the administrative agency
25 on the final costs of the project as compared to the approved project
26 budget, the project duration as compared to the original project
27 schedule as of the date of allocation, and performance outcomes
28 derived from the project compared to those described in the original
29 application for funding. The administrative agency shall forward
30 the report to the Department of Finance by means approved by the
31 Department of Finance.

32 ~~SEC. 91.~~

33 *SEC. 90.* Section 8879.60 of the Government Code is amended
34 to read:

35 8879.60. (a) For funds appropriated from the Transit System
36 Safety, Security, and Disaster Response Account for allocation to
37 intercity and commuter rail operators eligible to receive funds
38 pursuant to subdivision (c) of Section 8879.57, the Office of
39 Homeland Security (OHS) shall administer a grant application and
40 award program for those intercity and commuter rail operators.

1 (b) Funds awarded to intercity and commuter rail operators
2 pursuant to this section shall be for eligible capital expenditures
3 as described in subdivision (c) of Section 8879.57.

4 (c) Prior to allocating funds to projects pursuant to this section,
5 OHS shall adopt guidelines to establish the criteria and process
6 for the distribution of funds described in this section. Prior to
7 adopting the guidelines, OHS shall hold a public hearing on the
8 proposed guidelines.

9 (d) For each fiscal year in which funds are appropriated for the
10 purposes of this section, OHS shall issue a notice of funding
11 availability no later than October 1.

12 (e) No later than December 1 of each fiscal year in which the
13 notice in subdivision (d) is issued, eligible intercity and commuter
14 rail operators may submit project nominations for funding to OHS
15 for its review and consideration. Project nominations shall include
16 all of the following:

17 (1) A description of the project, which shall illustrate the
18 physical components of the project and the security or emergency
19 response benefit to be achieved by the completion of the project.

20 (2) Identification of all nonbond sources of funding committed
21 to the project.

22 (3) An estimate of the project’s full cost and the proposed
23 schedule for the project’s completion.

24 (f) No later than February 1, OHS shall select eligible projects
25 to receive grants under this section. Grants awarded to intercity
26 and commuter rail operators pursuant to subdivision (c) of Section
27 8879.57 shall be for eligible capital expenditures, as described in
28 subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of
29 that section.

30 ~~SEC. 92.~~

31 *SEC. 91.* Section 11126 of the Government Code is amended
32 to read:

33 11126. (a) (1) This article does not prevent a state body from
34 holding closed sessions during a regular or special meeting to
35 consider the appointment, employment, evaluation of performance,
36 or dismissal of a public employee or to hear complaints or charges
37 brought against that employee by another person or employee
38 unless the employee requests a public hearing.

39 (2) As a condition of holding a closed session on the complaints
40 or charges to consider disciplinary action or to consider dismissal,

1 the employee shall be given written notice of his or her right to
2 have a public hearing, rather than a closed session, and that notice
3 shall be delivered to the employee personally or by mail at least
4 24 hours before the time for holding a regular or special meeting.
5 If notice is not given, disciplinary or other action taken against
6 any employee at the closed session shall be null and void.

7 (3) The state body also may exclude from a public or closed
8 session, during the examination of a witness, any or all other
9 witnesses in the matter being investigated by the state body.

10 (4) Following the public hearing or closed session, the body
11 may deliberate on the decision to be reached in a closed session.

12 (b) For purposes of this section, “employee” does not include
13 a person who is elected to, or appointed to a public office by, a
14 state body. However, officers of the California State University
15 who receive compensation for their services, other than per diem
16 and ordinary and necessary expenses, shall, when engaged in that
17 capacity, be considered employees. Furthermore, for purposes of
18 this section, “employee” includes a person exempt from civil
19 service pursuant to subdivision (e) of Section 4 of Article VII of
20 the California Constitution.

21 (c) This article does not do any of the following:

22 (1) Prevent state bodies that administer the licensing of persons
23 engaging in businesses or professions from holding closed sessions
24 to prepare, approve, grade, or administer examinations.

25 (2) Prevent an advisory body of a state body that administers
26 the licensing of persons engaged in businesses or professions from
27 conducting a closed session to discuss matters that the advisory
28 body has found would constitute an unwarranted invasion of the
29 privacy of an individual licensee or applicant if discussed in an
30 open meeting, provided that the advisory body does not include a
31 quorum of the members of the state body it advises. Those matters
32 may include review of an applicant’s qualifications for licensure
33 and an inquiry specifically related to the state body’s enforcement
34 program concerning an individual licensee or applicant where the
35 inquiry occurs prior to the filing of a civil, criminal, or
36 administrative disciplinary action against the licensee or applicant
37 by the state body.

38 (3) Prohibit a state body from holding a closed session to
39 deliberate on a decision to be reached in a proceeding required to

1 be conducted pursuant to Chapter 5 (commencing with Section
2 11500) or similar provisions of law.

3 (4) Grant a right to enter a correctional institution or the grounds
4 of a correctional institution if that right is not otherwise granted
5 by law, and this article does not prevent a state body from holding
6 a closed session when considering and acting upon the
7 determination of a term, parole, or release of an individual or other
8 disposition of an individual case, or if public disclosure of the
9 subjects under discussion or consideration is expressly prohibited
10 by statute.

11 (5) Prevent a closed session to consider the conferring of
12 honorary degrees, or gifts, donations, and bequests that the donor
13 or proposed donor has requested in writing to be kept confidential.

14 (6) Prevent the Alcoholic Beverage Control Appeals Board from
15 holding a closed session for the purpose of holding a deliberative
16 conference as provided in Section 11125.

17 (7) (A) Prevent a state body from holding closed sessions with
18 its negotiator prior to the purchase, sale, exchange, or lease of real
19 property by or for the state body to give instructions to its
20 negotiator regarding the price and terms of payment for the
21 purchase, sale, exchange, or lease.

22 (B) However, prior to the closed session, the state body shall
23 hold an open and public session in which it identifies the real
24 property or real properties that the negotiations may concern and
25 the person or persons with whom its negotiator may negotiate.

26 (C) For purposes of this paragraph, the negotiator may be a
27 member of the state body.

28 (D) For purposes of this paragraph, “lease” includes renewal or
29 renegotiation of a lease.

30 (E) This article does not preclude a state body from holding a
31 closed session for discussions regarding eminent domain
32 proceedings pursuant to subdivision (e).

33 (8) Prevent the California Postsecondary Education Commission
34 from holding closed sessions to consider matters pertaining to the
35 appointment or termination of the Director of the California
36 Postsecondary Education Commission.

37 (9) Prevent the Bureau for Private Postsecondary and Vocational
38 Education from holding closed sessions to consider matters
39 pertaining to the appointment or termination of the Executive

1 Director of the Bureau for Private Postsecondary and Vocational
2 Education.

3 (10) Prevent the Franchise Tax Board from holding closed
4 sessions for the purpose of discussion of confidential tax returns
5 or information the public disclosure of which is prohibited by law,
6 or from considering matters pertaining to the appointment or
7 removal of the Executive Officer of the Franchise Tax Board.

8 (11) Require the Franchise Tax Board to notice or disclose any
9 confidential tax information considered in closed sessions, or
10 documents executed in connection therewith, the public disclosure
11 of which is prohibited pursuant to Article 2 (commencing with
12 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
13 Revenue and Taxation Code.

14 (12) Prevent the Corrections Standards Authority from holding
15 closed sessions when considering reports of crime conditions under
16 Section 6027 of the Penal Code.

17 (13) Prevent the State Air Resources Board from holding closed
18 sessions when considering the proprietary specifications and
19 performance data of manufacturers.

20 (14) Prevent the State Board of Education or the Superintendent
21 of Public Instruction, or a committee advising the board or the
22 Superintendent, from holding closed sessions on those portions of
23 its review of assessment instruments pursuant to Chapter 5
24 (commencing with Section 60600) of, or pursuant to Chapter 9
25 (commencing with Section 60850) of, Part 33 of Division 4 of
26 Title 2 of the Education Code during which actual test content is
27 reviewed and discussed. The purpose of this provision is to
28 maintain the confidentiality of the assessments under review.

29 (15) Prevent the California Integrated Waste Management Board
30 or its auxiliary committees from holding closed sessions for the
31 purpose of discussing confidential tax returns, discussing trade
32 secrets or confidential or proprietary information in its possession,
33 or discussing other data, the public disclosure of which is
34 prohibited by law.

35 (16) Prevent a state body that invests retirement, pension, or
36 endowment funds from holding closed sessions when considering
37 investment decisions. For purposes of consideration of shareholder
38 voting on corporate stocks held by the state body, closed sessions
39 for the purposes of voting may be held only with respect to election
40 of corporate directors, election of independent auditors, and other

1 financial issues that could have a material effect on the net income
2 of the corporation. For purposes of real property investment
3 decisions that may be considered in a closed session pursuant to
4 this paragraph, a state body shall also be exempt from the
5 provisions of paragraph (7) relating to the identification of real
6 properties prior to the closed session.

7 (17) Prevent a state body, or boards, commissions,
8 administrative officers, or other representatives that may properly
9 be designated by law or by a state body, from holding closed
10 sessions with its representatives in discharging its responsibilities
11 under Chapter 10 (commencing with Section 3500), Chapter 10.3
12 (commencing with Section 3512), Chapter 10.5 (commencing with
13 Section 3525), or Chapter 10.7 (commencing with Section 3540)
14 of Division 4 of Title 1 as the sessions relate to salaries, salary
15 schedules, or compensation paid in the form of fringe benefits.
16 For the purposes enumerated in the preceding sentence, a state
17 body also may meet with a state conciliator who has intervened
18 in the proceedings.

19 (18) (A) Prevent a state body from holding closed sessions to
20 consider matters posing a threat or potential threat of criminal or
21 terrorist activity against the personnel, property, buildings,
22 facilities, or equipment, including electronic data, owned, leased,
23 or controlled by the state body, where disclosure of these
24 considerations could compromise or impede the safety or security
25 of the personnel, property, buildings, facilities, or equipment,
26 including electronic data, owned, leased, or controlled by the state
27 body.

28 (B) Notwithstanding any other provision of law, a state body,
29 at any regular or special meeting, may meet in a closed session
30 pursuant to subparagraph (A) upon a two-thirds vote of the
31 members present at the meeting.

32 (C) After meeting in closed session pursuant to subparagraph
33 (A), the state body shall reconvene in open session prior to
34 adjournment and report that a closed session was held pursuant to
35 subparagraph (A), the general nature of the matters considered,
36 and whether action was taken in closed session.

37 (D) After meeting in closed session pursuant to subparagraph
38 (A), the state body shall submit to the Legislative Analyst written
39 notification stating that it held this closed session, the general
40 reason or reasons for the closed session, the general nature of the

1 matters considered, and whether action was taken in closed session.
2 The Legislative Analyst shall retain for no less than four years
3 written notification received from a state body pursuant to this
4 subparagraph.

5 (d) (1) Notwithstanding any other provision of law, a meeting
6 of the Public Utilities Commission at which the rates of entities
7 under the commission's jurisdiction are changed shall be open and
8 public.

9 (2) This article does not prevent the Public Utilities Commission
10 from holding closed sessions to deliberate on the institution of
11 proceedings, or disciplinary actions against a person or entity under
12 the jurisdiction of the commission.

13 (e) (1) This article does not prevent a state body, based on the
14 advice of its legal counsel, from holding a closed session to confer
15 with, or receive advice from, its legal counsel regarding pending
16 litigation when discussion in open session concerning those matters
17 would prejudice the position of the state body in the litigation.

18 (2) For purposes of this article, all expressions of the
19 lawyer-client privilege other than those provided in this subdivision
20 are hereby abrogated. This subdivision is the exclusive expression
21 of the lawyer-client privilege for purposes of conducting closed
22 session meetings pursuant to this article. For purposes of this
23 subdivision, litigation shall be considered pending when any of
24 the following circumstances exist:

25 (A) An adjudicatory proceeding before a court, an administrative
26 body exercising its adjudicatory authority, a hearing officer, or an
27 arbitrator, to which the state body is a party has been initiated
28 formally.

29 (B) (i) A point has been reached where, in the opinion of the
30 state body on the advice of its legal counsel, based on existing
31 facts and circumstances, there is a significant exposure to litigation
32 against the state body.

33 (ii) Based on existing facts and circumstances, the state body
34 is meeting only to decide whether a closed session is authorized
35 pursuant to clause (i).

36 (C) (i) Based on existing facts and circumstances, the state
37 body has decided to initiate or is deciding whether to initiate
38 litigation.

39 (ii) The legal counsel of the state body shall prepare and submit
40 to it a memorandum stating the specific reasons and legal authority

1 for the closed session. If the closed session is pursuant to paragraph
2 (1), the memorandum shall include the title of the litigation. If the
3 closed session is pursuant to subparagraph (A) or (B), the
4 memorandum shall include the existing facts and circumstances
5 on which it is based. The legal counsel shall submit the
6 memorandum to the state body prior to the closed session, if
7 feasible, and in any case no later than one week after the closed
8 session. The memorandum shall be exempt from disclosure
9 pursuant to Section 6254.25.

10 (iii) For purposes of this subdivision, “litigation” includes any
11 adjudicatory proceeding, including eminent domain, before a court,
12 administrative body exercising its adjudicatory authority, hearing
13 officer, or arbitrator.

14 (iv) Disclosure of a memorandum required under this
15 subdivision is not a waiver of the lawyer-client privilege, as
16 provided for under Article 3 (commencing with Section 950) of
17 Chapter 4 of Division 8 of the Evidence Code.

18 (f) In addition to subdivisions (a), (b), and (c), this article does
19 not do any of the following:

20 (1) Prevent a state body operating under a joint powers
21 agreement for insurance pooling from holding a closed session to
22 discuss a claim for the payment of tort liability or public liability
23 losses incurred by the state body or a member agency under the
24 joint powers agreement.

25 (2) Prevent the examining committee established by the State
26 Board of Forestry and Fire Protection, pursuant to Section 763 of
27 the Public Resources Code, from conducting a closed session to
28 consider disciplinary action against an individual professional
29 forester prior to the filing of an accusation against the forester
30 pursuant to Section 11503.

31 (3) Prevent an administrative committee established by the
32 California Board of Accountancy pursuant to Section 5020 of the
33 Business and Professions Code from conducting a closed session
34 to consider disciplinary action against an individual accountant
35 prior to the filing of an accusation against the accountant pursuant
36 to Section 11503. This article does not prevent an examining
37 committee established by the California Board of Accountancy
38 pursuant to Section 5023 of the Business and Professions Code
39 from conducting a closed hearing to interview an individual
40 applicant or accountant regarding the applicant’s qualifications.

1 (4) Prevent a state body, as defined in subdivision (b) of Section
2 11121, from conducting a closed session to consider a matter that
3 properly could be considered in closed session by the state body
4 the authority of which it exercises.

5 (5) Prevent a state body, as defined in subdivision (d) of Section
6 11121, from conducting a closed session to consider a matter that
7 properly could be considered in a closed session by the body
8 defined as a state body pursuant to subdivision (a) or (b) of Section
9 11121.

10 (6) Prevent a state body, as defined in subdivision (c) of Section
11 11121, from conducting a closed session to consider a matter that
12 properly could be considered in a closed session by the state body
13 it advises.

14 (7) Prevent the State Board of Equalization from holding closed
15 sessions for either of the following:

16 (A) When considering matters pertaining to the appointment or
17 removal of the Executive Secretary of the State Board of
18 Equalization.

19 (B) For the purpose of hearing confidential taxpayer appeals or
20 data, the public disclosure of which is prohibited by law.

21 (8) Require the State Board of Equalization to disclose action
22 taken in closed session or documents executed in connection with
23 that action, the public disclosure of which is prohibited by law
24 pursuant to Sections 15619 and 15641 of this code and Sections
25 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651,
26 45982, 46751, 50159, 55381, and 60609 of the Revenue and
27 Taxation Code.

28 (9) Prevent the California Earthquake Prediction Evaluation
29 Council, or other body appointed to advise the Director of the
30 Office of Emergency Services or the Governor concerning matters
31 relating to volcanic or earthquake predictions, from holding closed
32 sessions when considering the evaluation of possible predictions.

33 (g) This article does not prevent either of the following:

34 (1) The Teachers' Retirement Board of the State Teachers'
35 Retirement System or the Board of Administration of the Public
36 Employees' Retirement System from holding closed sessions when
37 considering matters pertaining to the recruitment, appointment,
38 employment, or removal of the chief executive officer or when
39 considering matters pertaining to the recruitment or removal of

1 the Chief Investment Officer of the State Teachers' Retirement
2 System or the Public Employees' Retirement System.

3 (2) The Commission on Teacher Credentialing from holding
4 closed sessions when considering matters relating to the
5 recruitment, appointment, or removal of its executive director.

6 (h) This article does not prevent the Board of Administration
7 of the Public Employees' Retirement System from holding closed
8 sessions when considering matters relating to the development of
9 rates and competitive strategy for plans offered pursuant to Chapter
10 15 (commencing with Section 21660) of Part 3 of Division 5 of
11 Title 2.

12 (i) This article does not prevent the Managed Risk Medical
13 Insurance Board from holding closed sessions when considering
14 matters related to the development of rates and contracting strategy
15 for entities contracting or seeking to contract with the board
16 pursuant to Part 6.2 (commencing with Section 12693), Part 6.3
17 (commencing with Section 12695), Part 6.4 (commencing with
18 Section 12699.50), or Part 6.5 (commencing with Section 12700)
19 of Division 2 of the Insurance Code.

20 ~~SEC. 93.~~

21 *SEC. 92.* Section 11549.2 of the Government Code is amended
22 to read:

23 11549.2. (a) Employees assigned to the security unit of the
24 Office of Technology Review, Oversight, and Security within the
25 Department of Finance, and the employees of the Office of Privacy
26 Protection within the Department of Consumer Affairs are
27 transferred to the office, within the State and Consumer Services
28 Agency.

29 (b) The status, position, and rights of an employee transferred
30 pursuant to this section shall not be affected by the transfer.

31 ~~SEC. 94.~~

32 *SEC. 93.* Section 11549.5 of the Government Code is amended
33 to read:

34 11549.5. (a) There is hereby created in the office, the Office
35 of Privacy Protection. The purpose of the Office of Privacy
36 Protection shall be to protect the privacy of individuals' personal
37 information in a manner consistent with the California Constitution
38 by identifying consumer problems in the privacy area and
39 facilitating the development of fair information practices in
40 adherence with the Information Practices Act of 1977 (Chapter 1

1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
2 3 of the Civil Code).

3 (b) The Office of Privacy Protection shall inform the public of
4 potential options for protecting the privacy of, and avoiding the
5 misuse of, personal information.

6 (c) The Office of Privacy Protection shall make
7 recommendations to organizations for privacy policies and
8 practices that promote and protect the interests of the consumers
9 of this state.

10 (d) The Office of Privacy Protection may promote voluntary
11 and mutually agreed upon nonbinding arbitration and mediation
12 of privacy-related disputes where appropriate.

13 (e) The Office of Privacy Protection shall do all of the following:

14 (1) Receive complaints from individuals concerning a person
15 obtaining, compiling, maintaining, using, disclosing, or disposing
16 of personal information in a manner that may be potentially
17 unlawful or violate a stated privacy policy relating to that
18 individual, and provide advice, information, and referral, where
19 available.

20 (2) Provide information to consumers on effective ways of
21 handling complaints that involve violations of privacy-related
22 laws, including identity theft and identity fraud. If appropriate
23 local, state, or federal agencies are available to assist consumers
24 with those complaints, the office shall refer those complaints to
25 those agencies.

26 (3) Develop information and educational programs and materials
27 to foster public understanding and recognition of the purposes of
28 this article.

29 (4) Investigate and assist in the prosecution of identity theft and
30 other privacy-related crimes, and, as necessary, coordinate with
31 local, state, and federal law enforcement agencies in the
32 investigation of similar crimes.

33 (5) Assist and coordinate in the training of local, state, and
34 federal law enforcement agencies regarding identity theft and other
35 privacy-related crimes, as appropriate.

36 (6) The authority of the Office of Privacy Protection to adopt
37 regulations under this article shall be limited exclusively to those
38 regulations necessary and appropriate to implement subdivisions
39 (b), (c), (d), and (e).

1 ~~SEC. 95.~~

2 *SEC. 94.* Section 11549.6 of the Government Code is amended
3 to read:

4 11549.6. This chapter shall not apply to the State Compensation
5 Insurance Fund, the Legislature, or the Legislative Data Center in
6 the Legislative Counsel Bureau.

7 ~~SEC. 96.~~

8 *SEC. 95.* Section 11550 of the Government Code is amended
9 to read:

10 11550. (a) Effective January 1, 1988, an annual salary of
11 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to
12 each of the following:

- 13 (1) Director of Finance.
- 14 (2) Secretary of Business, Transportation and Housing.
- 15 (3) Secretary of the Resources Agency.
- 16 (4) Secretary of California Health and Human Services.
- 17 (5) Secretary of State and Consumer Services.
- 18 (6) Commissioner of the California Highway Patrol.
- 19 (7) Secretary of the Department of Corrections and
20 Rehabilitation.
- 21 (8) Secretary of Food and Agriculture.
- 22 (9) Secretary of Veterans Affairs.
- 23 (10) Secretary of Labor and Workforce Development.
- 24 (11) State Chief Information Officer.
- 25 (12) Secretary for Environmental Protection.

26 (b) The annual compensation provided by this section shall be
27 increased in any fiscal year in which a general salary increase is
28 provided for state employees. The amount of the increase provided
29 by this section shall be comparable to, but shall not exceed, the
30 percentage of the general salary increases provided for state
31 employees during that fiscal year.

32 ~~SEC. 97.~~

33 *SEC. 96.* Section 13959 of the Government Code is amended
34 to read:

35 13959. (a) The board shall grant a hearing to an applicant who
36 believes he or she is entitled to compensation pursuant to this
37 chapter to contest a staff recommendation to deny compensation
38 in whole or in part.

39 (b) The board shall notify the applicant not less than 10 days
40 prior to the date of the hearing. Notwithstanding Section 11123,

1 if the application that the board is considering involves either a
2 crime against a minor, a crime of sexual assault, or a crime of
3 domestic violence, the board may exclude from the hearing all
4 persons other than board members and members of its staff, the
5 applicant for benefits, a minor applicant's parents or guardians,
6 the applicant's representative, witnesses, and other persons of the
7 applicant's choice to provide assistance to the applicant during the
8 hearing. However, the board shall not exclude persons from the
9 hearing if the applicant or applicant's representative requests that
10 the hearing be open to the public.

11 (c) At the hearing, the person seeking compensation shall have
12 the burden of establishing, by a preponderance of the evidence,
13 the elements for eligibility under Section 13955.

14 (d) Except as otherwise provided by law, in making
15 determinations of eligibility for compensation and in deciding
16 upon the amount of compensation, the board shall apply the law
17 in effect as of the date an application was submitted.

18 (e) The hearing shall be informal and need not be conducted
19 according to the technical rules relating to evidence and witnesses.
20 The board may rely on any relevant evidence if it is the sort of
21 evidence on which responsible persons are accustomed to rely in
22 the conduct of serious affairs, regardless of the existence of a
23 common law or statutory rule that might make improper the
24 admission of the evidence over objection in a civil action. The
25 board may rely on written reports prepared for the board, or other
26 information received, from public agencies responsible for
27 investigating the crime. If the applicant or the applicant's
28 representative chooses not to appear at the hearing, the board may
29 act solely upon the application for compensation, the staff's report,
30 and other evidence that appears in the record.

31 (f) Hearings shall be held in various locations with the frequency
32 necessary to provide for the speedy adjudication of the applications.
33 If the applicant's presence is required at the hearing, the board
34 shall schedule the applicant's hearing in as convenient a location
35 as possible.

36 (g) The board may delegate the hearing of applications to
37 hearing officers.

38 (h) The decisions of the board shall be in writing. Copies of the
39 decisions shall be delivered to the applicant or to his or her
40 representative personally or sent to him or her by mail.

1 (i) The board may order a reconsideration of all or part of a
2 decision on written request of the applicant. The board shall not
3 grant more than one request for reconsideration with respect to
4 any one decision on an application for compensation. The board
5 shall not consider any request for reconsideration filed with the
6 board more than 30 calendar days after the personal delivery or
7 60 calendar days after the mailing of the original decision.

8 (j) The board may order a reconsideration of all or part of a
9 decision on its own motion, at its discretion, at any time.

10 ~~SEC. 98.~~

11 *SEC. 97.* Section 14838 of the Government Code is amended
12 to read:

13 14838. In order to facilitate the participation of small business,
14 including microbusiness, in the provision of goods, information
15 technology, and services to the state, and in the construction
16 (including alteration, demolition, repair, or improvement) of state
17 facilities, the directors of the department and other state agencies
18 that enter those contracts, each within their respective areas of
19 responsibility, shall do all of the following:

20 (a) Establish goals, consistent with those established by the
21 Office of Small Business Certification and Resources, for the extent
22 of participation of small businesses, including microbusinesses,
23 in the provision of goods, information technology, and services to
24 the state, and in the construction of state facilities.

25 (b) Provide for small business preference, or nonsmall business
26 preference for bidders that provide for small business and
27 microbusiness subcontractor participation, in the award of contracts
28 for goods, information technology, services, and construction, as
29 follows:

30 (1) In solicitations where an award is to be made to the lowest
31 responsible bidder meeting specifications, the preference to small
32 business and microbusiness shall be 5 percent of the lowest
33 responsible bidder meeting specifications. The preference to
34 nonsmall business bidders that provide for small business or
35 microbusiness subcontractor participation shall be, up to a
36 maximum of 5 percent of the lowest responsible bidder meeting
37 specifications, determined according to rules and regulations
38 established by the Department of General Services.

39 (2) In solicitations where an award is to be made to the highest
40 scored bidder based on evaluation factors in addition to price, the

1 preference to small business or microbusiness shall be 5 percent
2 of the highest responsible bidder's total score. The preference to
3 non-small business bidders that provide for small business or
4 microbusiness subcontractor participation shall be up to a
5 maximum 5 percent of the highest responsible bidder's total score,
6 determined according to rules and regulations established by the
7 Department of General Services.

8 (3) The preferences under paragraphs (1) and (2) shall not be
9 awarded to a non-compliant bidder and shall not be used to achieve
10 any applicable minimum requirements.

11 (4) The preference under paragraph (1) shall not exceed fifty
12 thousand dollars (\$50,000) for any bid, and the combined cost of
13 preferences granted pursuant to paragraph (1) and any other
14 provision of law shall not exceed one hundred thousand dollars
15 (\$100,000). In bids in which the state has reserved the right to
16 make multiple awards, this fifty thousand dollar (\$50,000)
17 maximum preference cost shall be applied, to the extent possible,
18 so as to maximize the dollar participation of small businesses,
19 including microbusinesses, in the contract award.

20 (c) Give special consideration to small businesses and
21 microbusinesses by both:

22 (1) Reducing the experience required.

23 (2) Reducing the level of inventory normally required.

24 (d) Give special assistance to small businesses and
25 microbusinesses in the preparation and submission of the
26 information requested in Section 14310.

27 (e) Under the authorization granted in Section 10163 of the
28 Public Contract Code, make awards, whenever feasible, to small
29 business and microbusiness bidders for each project bid upon
30 within their prequalification rating. This may be accomplished by
31 dividing major projects into subprojects so as to allow a small
32 business or microbusiness contractor to qualify to bid on these
33 subprojects.

34 (f) Small business and microbusiness bidders qualified in
35 accordance with this chapter shall have precedence over non-small
36 business bidders in that the application of a bidder preference for
37 which non-small business bidders may be eligible under this section
38 or any other provision of law shall not result in the denial of the
39 award to a small business or microbusiness bidder. In the event of
40 a precise tie between the low responsible bid of a bidder meeting

1 specifications of a small business or microbusiness, and the low
2 responsible bid of a bidder meeting the specifications of a disabled
3 veteran-owned small business or microbusiness, the contract shall
4 be awarded to the disabled veteran-owned small business or
5 microbusiness. This provision applies if the small business or
6 microbusiness bidder is the lowest responsible bidder, as well as
7 if the small business or microbusiness bidder is eligible for award
8 as the result of application of the small business and microbusiness
9 bidder preference granted by subdivision (b).

10 ~~SEC. 99.~~

11 *SEC. 98.* Section 15820.104 of the Government Code is
12 amended to read:

13 15820.104. (a) The State Public Works Board may issue up
14 to one hundred forty-six million one hundred sixty thousand dollars
15 (\$146,160,000) in revenue bonds, negotiable notes, or negotiable
16 bond anticipation notes pursuant to this part, to finance the design
17 and construction for the project. The revenue bonds, negotiable
18 notes, or negotiable bond anticipation notes authorized in this
19 chapter shall reduce the amount of revenue bonds, negotiable notes,
20 or negotiable bond anticipation notes the board is authorized to
21 issue pursuant to subdivision (a) of Section 15819.403 for the
22 construction authorized by subdivision (c) of Section 15819.40.
23 None of the provisions of Chapter 3.2.1 (commencing with Section
24 15819.40) shall apply to the project.

25 (b) The department may borrow funds for project costs from
26 the Pooled Money Investment Account pursuant to Sections 16312
27 and 16313 or from any other appropriate source. In the event any
28 of the revenue bonds, notes, or bond anticipation notes authorized
29 by this chapter are not sold, the department shall commit a
30 sufficient amount of its support appropriation to repay loans made
31 from the Pooled Money Investment Account for an approved
32 project.

33 (c) The costs of financing include, but are not limited to, interest
34 during construction of the project, a reasonably required reserve
35 fund, and the cost of issuance of permanent financing.

36 (d) The department and the board shall execute and deliver any
37 and all leases, contracts, agreements, or other documents necessary
38 for the sale of bonds or other financing for the project.

39 (e) Proceeds of the revenue bonds, notes, or bond anticipation
40 notes may be used to reimburse the department for the costs of

1 preliminary plans, working drawings, and construction for the
2 project.

3 (f) Notwithstanding Section 13340, funds derived pursuant to
4 this section are continuously appropriated for purposes of this
5 chapter.

6 ~~SEC. 100.~~

7 *SEC. 99.* Section 15820.105 of the Government Code is
8 amended to read:

9 15820.105. (a) Plans and specifications for the project shall
10 comply with applicable building codes.

11 (b) The project is hereby deemed a “public work” project for
12 purposes of Title 15 (commencing with Section 3082) of Part 4 of
13 Division 3 of the Civil Code.

14 (c) The provisions of Chapter 1 (commencing with Section
15 1720) of Part 7 of Division 2 of the Labor Code shall apply to all
16 public works contracts entered into for the project.

17 (d) Other than as provided in this section and Sections
18 15820.101 to ~~and~~ 15820.104, inclusive, private sector methods
19 may be used to deliver the project. Specifically, the procurement
20 and contracting for the delivery of the project is not subject to the
21 State Contract Act (Part 2 (commencing with Section 10100) of
22 Division 2 of the Public Contract Code) or any other provision of
23 California law governing public procurement or public works
24 projects.

25 ~~SEC. 101.~~

26 *SEC. 100.* Section 19609 of the Government Code is amended
27 to read:

28 19609. (a) For a demonstration project made permanent
29 pursuant to legislation operative on or after January 1, 2008, a
30 department participating in the demonstration project shall file a
31 report on all aspects of the demonstration project with the State
32 Personnel Board. The report shall include, but not be limited to,
33 all of the following:

- 34 (1) The number of applicants.
35 (2) The number of applicants that were hired.
36 (3) The cost of the hiring process.
37 (4) The number and nature of examination appeals.
38 (5) The length of time to complete the hiring and testing process.

39 (b) For a three-year period from the date that the demonstration
40 project becomes permanent, the department shall file the report

1 described in subdivision (a) on an annual basis. After the expiration
2 of the three-year period, the department shall file a report if a report
3 is requested by the State Personnel Board.

4 (c) When the State Personnel Board receives a report described
5 in this section, the State Personnel Board may hold a public hearing
6 to provide for the exchange of information and an opportunity for
7 public comment about the demonstration project that is the subject
8 of the report.

9 ~~SEC. 102.~~

10 *SEC. 101.* Section 27293 of the Government Code is amended
11 to read:

12 27293. (a) (1) Except as otherwise provided in subdivision
13 (b), if an instrument intended for record is executed or certified in
14 whole or in part in a language other than English, the recorder
15 shall not accept the instrument for record.

16 (2) (A) A translation in English of an instrument executed or
17 certified in whole or in part in a language other than English may
18 be presented to the county clerk for verification that the translation
19 was performed by a certified or registered court interpreter, as
20 described in Section 68561, or by an accredited translator registered
21 with the American Translators Association. The translation shall
22 be accompanied by a notarized declaration by the interpreter or
23 translator that the translation is true and accurate, and includes the
24 certification, qualification, or registration of the interpreter or
25 translator. The clerk shall consult an Internet Web site maintained
26 by the Judicial Council or the American Translators Association
27 in verifying the certification, qualification, or registration of the
28 interpreter or translator.

29 (B) Upon verification that the translation was performed by an
30 interpreter or translator described in subparagraph (A), and that
31 the translation is accompanied by a notarized declaration as
32 required pursuant to subparagraph (A), the clerk shall duly make
33 certification of that verification under seal of the county, attach
34 the certification to the translation, and attach the certified
35 translation to the original instrument.

36 (C) For this verification and certification, a fee of ten dollars
37 (\$10) shall be paid to the county clerk for each document submitted
38 for certification. The attached original instrument and certified
39 translation may be presented to the recorder, and, upon payment
40 of the usual fees, the recorder shall accept and permanently file

1 the instrument and record the certified translation. The recording
2 of the certified translation gives notice and is of the same effect
3 as the recording of an original instrument. Certified copies of the
4 recorded translation may be recorded in other counties, with the
5 same effect as the recording of the original translation, provided,
6 however, that in those counties where a photostatic or photographic
7 method of recording is employed, the whole instrument, including
8 the foreign language and the translation, may be recorded, and the
9 original instrument returned to the party leaving it for record or
10 upon his or her order.

11 (b) The provisions of subdivision (a) do not apply to any
12 instrument offered for record that contains provisions in English
13 and a translation of the English provisions in a language other than
14 English, provided that the English provisions and the translation
15 thereof are specifically set forth in state or federal law.

16 (c) The county clerk is not required to issue a translation
17 certificate if he or she is unable to confirm the certification,
18 registration, or accreditation of the translator, as required in
19 subdivision (a).

20 ~~SEC. 103.~~

21 *SEC. 102.* Section 27361 of the Government Code is amended
22 to read:

23 27361. (a) The fee for recording and indexing every
24 instrument, paper, or notice required or permitted by law to be
25 recorded is four dollars (\$4) for recording the first page and three
26 dollars (\$3) for each additional page, except the recorder may
27 charge additional fees as follows:

28 (1) If the printing on printed forms is spaced more than nine
29 lines per vertical inch or more than 22 characters and spaces per
30 inch measured horizontally for not less than three inches in one
31 sentence, the recorder shall charge one dollar (\$1) extra for each
32 page or sheet on which printing appears, except, however, the extra
33 charge shall not apply to printed words which are directive or
34 explanatory in nature for completion of the form or on vital
35 statistics forms. Fees collected under this paragraph are not subject
36 to subdivision (b) or (c).

37 (2) If a page or sheet does not conform with the dimensions
38 described in subdivision (a) of Section 27361.5, the recorder shall
39 charge three dollars (\$3) extra per page or sheet of the document.
40 The funds generated by the extra charge authorized under this

1 paragraph shall be available solely to support, maintain, improve,
2 and provide for the full operation for modernized creation,
3 retention, and retrieval of information in each county's system of
4 recorded documents. Fees collected under this paragraph are not
5 subject to subdivision (b) or (c).

6 (b) One dollar (\$1) of each three dollar (\$3) fee for each
7 additional page shall be deposited in the county general fund.

8 (c) Notwithstanding Section 68085, one dollar (\$1) for recording
9 the first page and one dollar (\$1) for each additional page shall be
10 available solely to support, maintain, improve, and provide for the
11 full operation for modernized creation, retention, and retrieval of
12 information in each county's system of recorded documents.

13 (d) (1) In addition to all other fees authorized by this section,
14 a county recorder may charge a fee of one dollar (\$1) for recording
15 the first page of every instrument, paper, or notice required or
16 permitted by law to be recorded, as authorized by each county's
17 board of supervisors. The funds generated by this fee shall be used
18 only by the county recorder collecting the fee for the purpose of
19 implementing a social security number truncation program pursuant
20 to Article 3.5 (commencing with Section 27300).

21 (2) A county recorder shall not charge the fee described in
22 paragraph (1) after December 31, 2017, unless the county recorder
23 has received reauthorization by the county's board of supervisors.
24 A county recorder shall not seek reauthorization of the fee by the
25 board before June 1, 2017, or after December 31, 2017. In
26 determining the additional period of authorization, the board shall
27 consider the review described in paragraph (4).

28 (3) Notwithstanding paragraph (2), a county recorder who,
29 pursuant to subdivision (c) of Section 27304, secures a revenue
30 anticipation loan, or other outside source of funding, for the
31 implementation of a social security number truncation program,
32 may be authorized to charge the fee described in paragraph (1) for
33 a period not to exceed the term of repayment of the loan or other
34 outside source of funding.

35 (4) A county board of supervisors that authorizes the fee
36 described in this subdivision shall require the county auditor to
37 conduct two reviews to verify that the funds generated by this fee
38 are used only for the purpose of the program, as described in Article
39 3.5 (commencing with Section 27300) and for conducting these
40 reviews. The reviews shall state the progress of the county recorder

1 in truncating recorded documents pursuant to subdivision (a) of
2 Section 27301, and shall estimate any ongoing costs to the county
3 recorder of complying with subdivisions (a) and (b) of Section
4 27301. The board shall require that the first review be completed
5 not before June 1, 2012, or after December 31, 2013, and that the
6 second review be completed not before June 1, 2017, or after
7 December 31, 2017. The reviews shall adhere to generally accepted
8 accounting standards, and the review results shall be made available
9 to the public.

10 ~~SEC. 104.~~

11 *SEC. 103.* Section 31521.3 of the Government Code is amended
12 to read:

13 31521.3. (a) The board of supervisors may provide that the
14 fourth, fifth, sixth, eighth, ninth, and alternate retired members of
15 the board of retirement shall receive compensation for the review
16 and analysis of disability retirement cases. The compensation shall
17 be limited to the first time a case is considered by the board and
18 shall not exceed one hundred dollars (\$100) per day. The
19 compensation shall be prorated for less than eight hours of work
20 in a single day.

21 (b) A board member compensated pursuant to subdivision (a)
22 shall certify to the retirement board, in a manner specified by the
23 retirement board, the number of hours spent reviewing disability
24 cases each month. The number of hours compensated under this
25 section shall not exceed 32 hours per month.

26 (c) On or before March 31, 2010, and on or before March 31 in
27 each even-numbered year thereafter, the compensation limit
28 established by the board of supervisors pursuant to subdivision (a)
29 shall be adjusted biennially by the board of retirement to reflect
30 any change in the Consumer Price Index for the Los Angeles,
31 Riverside, and Orange County areas that has occurred in the
32 previous two calendar years, rounded to the nearest dollar.

33 (d) This section shall apply only in a county of the first class,
34 as defined by Section 28020, as amended by Chapter 1204 of the
35 Statutes of 1971, and Section 28022, as amended by Chapter 43
36 of the Statutes of 1961.

37 ~~SEC. 105.~~

38 *SEC. 104.* Section 31739.33 of the Government Code is
39 amended to read:

1 31739.33. (a) Except as provided in subdivision (b), a
 2 retirement allowance, optional death allowance, or annual death
 3 allowance, including an allowance payable to a survivor of a
 4 member, payable to or on account of any member of this system
 5 or of a superseded system who has been or was retired for disability
 6 which did not on July 1, 1976, exceed five hundred dollars (\$500)
 7 per month is hereby increased as follows:

8 9 Number of years of	Percentage of increase
10 county or district	in monthly retirement
11 service	allowance
12 25 or more years.....	10%
13 20–25 years.....	8%
14 15–20 years.....	6%

15
 16 (b) No allowance shall be increased to more than five hundred
 17 dollars (\$500) per month pursuant to subdivision (a).

18 This section shall not be operative in a county until such time
 19 as the board of supervisors shall, by resolution adopted by majority
 20 vote, make the provisions of this section applicable in that county.

21 ~~SEC. 106.~~

22 *SEC. 105.* Section 53343.1 of the Government Code is amended
 23 to read:

24 53343.1. A community facilities district formed after January
 25 1, 1992, shall prepare, if requested by a person who resides in or
 26 owns property in the district, within 120 days after the last day of
 27 each fiscal year, a separate document titled an “Annual Report.”
 28 The district may charge a fee for the report not exceeding the actual
 29 costs of preparing the report. The report shall include the following
 30 information for the fiscal year:

- 31 (a) The amount of special taxes collected for the year.
- 32 (b) The amount of other moneys collected for the year and their
 33 source, including interest earned.
- 34 (c) The amount of moneys expended for the year.
- 35 (d) A summary of the amount of moneys expended for the
 36 following:
 - 37 (1) Facilities, including property.
 - 38 (2) Services.
 - 39 (3) The costs of bonded indebtedness.
 - 40 (4) The costs of collecting the special tax under Section 53340.

1 (5) Other administrative and overhead costs.

2 (e) For moneys expended for facilities, including property, an
3 identification of the categories of each type of facility funded with
4 amounts expended in each category, including the total percentage
5 of the cost of each type of facility that was funded with bond
6 proceeds or special taxes.

7 (f) For moneys expended for services, an identification of the
8 categories of each type of service funded with amounts expended
9 in each category, including the total percentage of the cost of each
10 type of service that was funded with bond proceeds or special
11 taxes.

12 (g) For moneys expended for other administrative costs, an
13 identification of each of these costs.

14 (h) The annual report shall contain references to the relevant
15 sections of the resolution of formation of the district so that
16 interested persons may confirm that bond proceeds and special
17 taxes are being used for authorized purposes. The annual report
18 shall be made available to the public upon request.

19 ~~SEC. 107.~~

20 *SEC. 106.* Section 53601 of the Government Code is amended
21 to read:

22 53601. This section shall apply to a local agency that is a city,
23 a district, or other local agency that does not pool money in
24 deposits or investments with other local agencies, other than local
25 agencies that have the same governing body. However, Section
26 53635 shall apply to all local agencies that pool money in deposits
27 or investments with other local agencies that have separate
28 governing bodies. The legislative body of a local agency having
29 moneys in a sinking fund or moneys in its treasury not required
30 for the immediate needs of the local agency may invest any portion
31 of the moneys that it deems wise or expedient in those investments
32 set forth below. A local agency purchasing or obtaining any
33 securities prescribed in this section, in a negotiable, bearer,
34 registered, or nonregistered format, shall require delivery of the
35 securities to the local agency, including those purchased for the
36 agency by financial advisers, consultants, or managers using the
37 agency's funds, by book entry, physical delivery, or by third-party
38 custodial agreement. The transfer of securities to the counterparty
39 bank's customer book entry account may be used for book entry
40 delivery.

1 For purposes of this section, “counterparty” means the other
2 party to the transaction. A counterparty bank’s trust department
3 or separate safekeeping department may be used for the physical
4 delivery of the security if the security is held in the name of the
5 local agency. Where this section specifies a percentage limitation
6 for a particular category of investment, that percentage is applicable
7 only at the date of purchase. Where this section does not specify
8 a limitation on the term or remaining maturity at the time of the
9 investment, no investment shall be made in any security, other
10 than a security underlying a repurchase or reverse repurchase
11 agreement or securities lending agreement authorized by this
12 section, that at the time of the investment has a term remaining to
13 maturity in excess of five years, unless the legislative body has
14 granted express authority to make that investment either
15 specifically or as a part of an investment program approved by the
16 legislative body no less than three months prior to the investment:

17 (a) Bonds issued by the local agency, including bonds payable
18 solely out of the revenues from a revenue-producing property
19 owned, controlled, or operated by the local agency or by a
20 department, board, agency, or authority of the local agency.

21 (b) United States Treasury notes, bonds, bills, or certificates of
22 indebtedness, or those for which the faith and credit of the United
23 States are pledged for the payment of principal and interest.

24 (c) Registered state warrants or treasury notes or bonds of this
25 state, including bonds payable solely out of the revenues from a
26 revenue-producing property owned, controlled, or operated by the
27 state or by a department, board, agency, or authority of the state.

28 (d) Registered treasury notes or bonds of any of the other 49
29 United States in addition to California, including bonds payable
30 solely out of the revenues from a revenue-producing property
31 owned, controlled, or operated by a state or by a department, board,
32 agency, or authority of any of the other 49 United States, in
33 addition to California.

34 (e) Bonds, notes, warrants, or other evidences of indebtedness
35 of a local agency within this state, including bonds payable solely
36 out of the revenues from a revenue-producing property owned,
37 controlled, or operated by the local agency, or by a department,
38 board, agency, or authority of the local agency.

39 (f) Federal agency or United States government-sponsored
40 enterprise obligations, participations, or other instruments,

1 including those issued by or fully guaranteed as to principal and
2 interest by federal agencies or United States government-sponsored
3 enterprises.

4 (g) Bankers' acceptances otherwise known as bills of exchange
5 or time drafts that are drawn on and accepted by a commercial
6 bank. Purchases of bankers' acceptances shall not exceed 180
7 days' maturity or 40 percent of the agency's moneys that may be
8 invested pursuant to this section. However, no more than 30 percent
9 of the agency's moneys may be invested in the bankers'
10 acceptances of any one commercial bank pursuant to this section.

11 This subdivision does not preclude a municipal utility district
12 from investing moneys in its treasury in a manner authorized by
13 the Municipal Utility District Act (Division 6 (commencing with
14 Section 11501) of the Public Utilities Code).

15 (h) Commercial paper of "prime" quality of the highest ranking
16 or of the highest letter and number rating as provided for by a
17 nationally recognized statistical rating organization (NRSRO).
18 The entity that issues the commercial paper shall meet all of the
19 following conditions in either paragraph (1) or (2):

20 (1) The entity meets the following criteria:

21 (A) Is organized and operating in the United States as a general
22 corporation.

23 (B) Has total assets in excess of five hundred million dollars
24 (\$500,000,000).

25 (C) Has debt other than commercial paper, if any, that is rated
26 "A" or higher by an NRSRO.

27 (2) The entity meets the following criteria:

28 (A) Is organized within the United States as a special purpose
29 corporation, trust, or limited liability company.

30 (B) Has programwide credit enhancements including, but not
31 limited to, overcollateralization, letters of credit, or a surety bond.

32 (C) Has commercial paper that is rated "A-1" or higher, or the
33 equivalent, by an NRSRO.

34 Eligible commercial paper shall have a maximum maturity of
35 270 days or less. Local agencies, other than counties or a city and
36 county, may invest no more than 25 percent of their moneys in
37 eligible commercial paper. Local agencies, other than counties or
38 a city and county, may purchase no more than 10 percent of the
39 outstanding commercial paper of any single issuer. Counties or a

1 city and county may invest in commercial paper pursuant to the
2 concentration limits in subdivision (a) of Section 53635.

3 (i) Negotiable certificates of deposit issued by a nationally or
4 state-chartered bank, a savings association or a federal association
5 (as defined by Section 5102 of the Financial Code), a state or
6 federal credit union, or by a state-licensed branch of a foreign
7 bank. Purchases of negotiable certificates of deposit ~~may~~ *shall* not
8 exceed 30 percent of the agency's moneys that may be invested
9 pursuant to this section. For purposes of this section, negotiable
10 certificates of deposit do not come within Article 2 (commencing
11 with Section 53630), except that the amount so invested shall be
12 subject to the limitations of Section 53638. The legislative body
13 of a local agency and the treasurer or other official of the local
14 agency having legal custody of the moneys are prohibited from
15 investing local agency funds, or funds in the custody of the local
16 agency, in negotiable certificates of deposit issued by a state or
17 federal credit union if a member of the legislative body of the local
18 agency, or a person with investment decisionmaking authority in
19 the administrative office manager's office, budget office,
20 auditor-controller's office, or treasurer's office of the local agency
21 also serves on the board of directors, or any committee appointed
22 by the board of directors, or the credit committee or the supervisory
23 committee of the state or federal credit union issuing the negotiable
24 certificates of deposit.

25 (j) (1) Investments in repurchase agreements or reverse
26 repurchase agreements or securities lending agreements of
27 securities authorized by this section, as long as the agreements are
28 subject to this subdivision, including the delivery requirements
29 specified in this section.

30 (2) Investments in repurchase agreements may be made, on an
31 investment authorized in this section, when the term of the
32 agreement does not exceed one year. The market value of securities
33 that underlie a repurchase agreement shall be valued at 102 percent
34 or greater of the funds borrowed against those securities and the
35 value shall be adjusted no less than quarterly. Since the market
36 value of the underlying securities is subject to daily market
37 fluctuations, the investments in repurchase agreements shall be in
38 compliance if the value of the underlying securities is brought back
39 up to 102 percent no later than the next business day.

1 (3) Reverse repurchase agreements or securities lending
2 agreements may be utilized only when all of the following
3 conditions are met:

4 (A) The security to be sold using a reverse repurchase agreement
5 or securities lending agreement has been owned and fully paid for
6 by the local agency for a minimum of 30 days prior to sale.

7 (B) The total of all reverse repurchase agreements and securities
8 lending agreements on investments owned by the local agency
9 does not exceed 20 percent of the base value of the portfolio.

10 (C) The agreement does not exceed a term of 92 days, unless
11 the agreement includes a written codicil guaranteeing a minimum
12 earning or spread for the entire period between the sale of a security
13 using a reverse repurchase agreement or securities lending
14 agreement and the final maturity date of the same security.

15 (D) Funds obtained or funds within the pool of an equivalent
16 amount to that obtained from selling a security to a counterparty
17 using a reverse repurchase agreement or securities lending
18 agreement shall not be used to purchase another security with a
19 maturity longer than 92 days from the initial settlement date of the
20 reverse repurchase agreement or securities lending agreement,
21 unless the reverse repurchase agreement or securities lending
22 agreement includes a written codicil guaranteeing a minimum
23 earning or spread for the entire period between the sale of a security
24 using a reverse repurchase agreement or securities lending
25 agreement and the final maturity date of the same security.

26 (4) (A) Investments in reverse repurchase agreements, securities
27 lending agreements, or similar investments in which the local
28 agency sells securities prior to purchase with a simultaneous
29 agreement to repurchase the security may be made only upon prior
30 approval of the governing body of the local agency and shall be
31 made only with primary dealers of the Federal Reserve Bank of
32 New York or with a nationally or state-chartered bank that has or
33 has had a significant banking relationship with a local agency.

34 (B) For purposes of this chapter, “significant banking
35 relationship” means any of the following activities of a bank:

36 (i) Involvement in the creation, sale, purchase, or retirement of
37 a local agency’s bonds, warrants, notes, or other evidence of
38 indebtedness.

39 (ii) Financing of a local agency’s activities.

1 (iii) Acceptance of a local agency's securities or funds as
2 deposits.

3 (5) (A) "Repurchase agreement" means a purchase of securities
4 by the local agency pursuant to an agreement by which the
5 counterparty seller will repurchase the securities on or before a
6 specified date and for a specified amount and the counterparty will
7 deliver the underlying securities to the local agency by book entry,
8 physical delivery, or by third-party custodial agreement. The
9 transfer of underlying securities to the counterparty bank's
10 customer book-entry account may be used for book-entry delivery.

11 (B) "Securities," for ~~purpose~~ *purposes* of repurchase under this
12 subdivision, means securities of the same issuer, description, issue
13 date, and maturity.

14 (C) "Reverse repurchase agreement" means a sale of securities
15 by the local agency pursuant to an agreement by which the local
16 agency will repurchase the securities on or before a specified date
17 and includes other comparable agreements.

18 (D) "Securities lending agreement" means an agreement under
19 which a local agency agrees to transfer securities to a borrower
20 who, in turn, agrees to provide collateral to the local agency.
21 During the term of the agreement, both the securities and the
22 collateral are held by a third party. At the conclusion of the
23 agreement, the securities are transferred back to the local agency
24 in return for the collateral.

25 (E) For purposes of this section, the base value of the local
26 agency's pool portfolio shall be that dollar amount obtained by
27 totaling all cash balances placed in the pool by all pool participants,
28 excluding any amounts obtained through selling securities by way
29 of reverse repurchase agreements, securities lending agreements,
30 or other similar borrowing methods.

31 (F) For purposes of this section, the spread is the difference
32 between the cost of funds obtained using the reverse repurchase
33 agreement and the earnings obtained on the reinvestment of the
34 funds.

35 (k) Medium-term notes, defined as all corporate and depository
36 institution debt securities with a maximum remaining maturity of
37 five years or less, issued by corporations organized and operating
38 within the United States or by depository institutions licensed by
39 the United States or any state and operating within the United
40 States. Notes eligible for investment under this subdivision shall

1 be rated “A” or better by an NRSRO. Purchases of medium-term
2 notes shall not include other instruments authorized by this section
3 and may not exceed 30 percent of the agency’s moneys that may
4 be invested pursuant to this section.

5 (l) (1) Shares of beneficial interest issued by diversified
6 management companies that invest in the securities and obligations
7 as authorized by ~~subdivisions~~ *subdivision* (a) to (j), inclusive, or
8 subdivisions (m) or (n) and that comply with the investment
9 restrictions of this article and Article 2 (commencing with Section
10 53630). However, notwithstanding these restrictions, a counterparty
11 to a reverse repurchase agreement or securities lending agreement
12 is not required to be a primary dealer of the Federal Reserve Bank
13 of New York if the company’s board of directors finds that the
14 counterparty presents a minimal risk of default, and the value of
15 the securities underlying a repurchase agreement or securities
16 lending agreement may be 100 percent of the sales price if the
17 securities are marked to market daily.

18 (2) Shares of beneficial interest issued by diversified
19 management companies that are money market funds registered
20 with the Securities and Exchange Commission under the
21 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

22 (3) If investment is in shares issued pursuant to paragraph (1),
23 the company shall have met either of the following criteria:

24 (A) Attained the highest ranking or the highest letter and
25 numerical rating provided by not less than two NRSROs.

26 (B) Retained an investment adviser registered or exempt from
27 registration with the Securities and Exchange Commission with
28 not less than five years’ experience investing in the securities and
29 obligations authorized by subdivisions (a) to (j), inclusive, or
30 ~~subdivisions~~ *subdivision* (m) or (n) and with assets under
31 management in excess of five hundred million dollars
32 (\$500,000,000).

33 (4) If investment is in shares issued pursuant to paragraph (2),
34 the company shall have met either of the following criteria:

35 (A) Attained the highest ranking or the highest letter and
36 numerical rating provided by not less than two ~~nationally~~
37 ~~recognized statistical rating organizations~~ *NRSROs*.

38 (B) Retained an investment adviser registered or exempt from
39 registration with the Securities and Exchange Commission with
40 not less than five years’ experience managing money market

1 mutual funds with assets under management in excess of five
2 hundred million dollars (\$500,000,000).

3 (5) The purchase price of shares of beneficial interest purchased
4 pursuant to this subdivision shall not include commission that the
5 companies may charge and shall not exceed 20 percent of the
6 agency's moneys that may be invested pursuant to this section.
7 However, no more than 10 percent of the agency's funds may be
8 invested in shares of beneficial interest of any one mutual fund
9 pursuant to paragraph (1).

10 (m) Moneys held by a trustee or fiscal agent and pledged to the
11 payment or security of bonds or other indebtedness, or obligations
12 under a lease, installment sale, or other agreement of a local
13 agency, or certificates of participation in those bonds, indebtedness,
14 or lease installment sale, or other agreements, may be invested in
15 accordance with the statutory provisions governing the issuance
16 of those bonds, indebtedness, or lease installment sale, or other
17 agreement, or to the extent not inconsistent therewith or if there
18 are no specific statutory provisions, in accordance with the
19 ordinance, resolution, indenture, or agreement of the local agency
20 providing for the issuance.

21 (n) Notes, bonds, or other obligations that are at all times secured
22 by a valid first priority security interest in securities of the types
23 listed by Section 53651 as eligible securities for the purpose of
24 securing local agency deposits having a market value at least equal
25 to that required by Section 53652 for the purpose of securing local
26 agency deposits. The securities serving as collateral shall be placed
27 by delivery or book entry into the custody of a trust company or
28 the trust department of a bank that is not affiliated with the issuer
29 of the secured obligation, and the security interest shall be perfected
30 in accordance with the requirements of the Uniform Commercial
31 Code or federal regulations applicable to the types of securities in
32 which the security interest is granted.

33 (o) A mortgage passthrough security, collateralized mortgage
34 obligation, mortgage-backed or other pay-through bond, equipment
35 lease-backed certificate, consumer receivable passthrough
36 certificate, or consumer receivable-backed bond of a maximum of
37 five years' maturity. Securities eligible for investment under this
38 subdivision shall be issued by an issuer having an "A" or higher
39 rating for the issuer's debt as provided by an NRSRO and rated in
40 a rating category of "AA" or its equivalent or better by an NRSRO.

1 Purchase of securities authorized by this subdivision may not
2 exceed 20 percent of the agency's surplus moneys that may be
3 invested pursuant to this section.

4 (p) Shares of beneficial interest issued by a joint powers
5 authority organized pursuant to Section 6509.7 that invests in the
6 securities and obligations authorized in subdivisions (a) to (n),
7 inclusive. Each share shall represent an equal proportional interest
8 in the underlying pool of securities owned by the joint powers
9 authority. To be eligible under this section, the joint powers
10 authority issuing the shares shall have retained an investment
11 adviser that meets all of the following criteria:

12 (1) The adviser is registered or exempt from registration with
13 the Securities and Exchange Commission.

14 (2) The adviser has not less than five years of experience
15 investing in the securities and obligations authorized in
16 subdivisions (a) to (n), inclusive.

17 (3) The adviser has assets under management in excess of five
18 hundred million dollars (\$500,000,000).

19 ~~SEC. 108.~~

20 *SEC. 107.* Section 56100.1 of the Government Code is amended
21 to read:

22 56100.1. A commission may require, through the adoption of
23 written policies and procedures, the disclosure of contributions,
24 as defined in Section 82015, expenditures, as defined in Section
25 82025, and independent expenditures, as defined in Section 82031,
26 made in support of or opposition to a proposal. Disclosure shall
27 be made either to the commission's executive officer, in which
28 case it shall be posted on the commission's Internet Web site, if
29 applicable, or to the board of supervisors of the county in which
30 the commission is located, which may designate a county officer
31 to receive the disclosure. Disclosure pursuant to a requirement
32 under the authority provided in this section shall be in addition to
33 any disclosure otherwise required by Section 56700.1, the Political
34 Reform Act of 1974 (Title 9 (commencing with Section 81000)),
35 or local ordinance.

36 ~~SEC. 109.~~

37 *SEC. 108.* Section 56700.1 of the Government Code is amended
38 to read:

39 56700.1. Expenditures for political purposes related to a
40 proposal for a change of organization or reorganization that will

1 be submitted to a commission pursuant to this part, and
 2 contributions in support of or in opposition to those proposals,
 3 shall be disclosed and reported to the commission to the same
 4 extent and subject to the same requirements of the Political Reform
 5 Act of 1974 (Title 9 (commencing with Section 81000)) as
 6 provided for local initiative measures.

7 ~~SEC. 110.~~

8 *SEC. 109.* Section 57009 of the Government Code is amended
 9 to read:

10 57009. Expenditures for political purposes related to
 11 proceedings for a change of organization or reorganization that
 12 will be conducted pursuant to this part, and contributions in support
 13 of or in opposition to those proceedings, shall be disclosed and
 14 reported to the commission to the same extent and subject to the
 15 same requirements of the Political Reform Act of 1974 (Title 9
 16 (commencing with Section 81000)) as provided for local initiative
 17 measures.

18 ~~SEC. 111.~~

19 *SEC. 110.* Section 65007 of the Government Code is amended
 20 to read:

21 65007. As used in this title, the following terms have the
 22 following meanings, unless the context requires otherwise:

- 23 (a) "Adequate progress" means all of the following:
 - 24 (1) The total project scope, schedule, and cost of the completed
 25 flood protection system have been developed to meet the
 26 appropriate standard of protection.
 - 27 (2) Revenues sufficient to fund each year of the project schedule
 28 developed in paragraph (1) have been identified and, in any given
 29 year and consistent with that schedule, at least 90 percent of the
 30 revenues scheduled to have been received by that year have been
 31 appropriated and are currently being expended.
 - 32 (3) Critical features of the flood protection system are under
 33 construction, and each critical feature is progressing as indicated
 34 by the actual expenditure of the construction budget funds.
 - 35 (4) The city or county has not been responsible for a significant
 36 delay in the completion of the system.
 - 37 (5) The local flood management agency shall provide the
 38 Department of Water Resources and the Central Valley Flood
 39 Protection Board with the information specified in this subdivision
 40 sufficient to determine substantial completion of the required flood

1 protection. The local flood management agency shall annually
2 report to the Central Valley Flood Protection Board on the efforts
3 in working toward completion of the flood protection system.

4 (b) “Central Valley Flood Protection Plan” has the same
5 meaning as that set forth in Section 9612 of the Water Code.

6 (c) “Developed area” has the same meaning as that set forth in
7 Section 59.1 of Title 44 of the Code of Federal Regulations.

8 (d) “Flood hazard zone” means an area subject to flooding that
9 is delineated as either a special hazard area or an area of moderate
10 hazard on an official flood insurance rate map issued by the Federal
11 Emergency Management Agency. The identification of flood
12 hazard zones does not imply that areas outside the flood hazard
13 zones, or uses permitted within flood hazard zones, will be free
14 from flooding or flood damage.

15 (e) “Nonurbanized area” means a developed area or an area
16 outside a developed area in which there are fewer than 10,000
17 residents.

18 (f) “Project levee” means any levee that is part of the facilities
19 of the State Plan of Flood Control.

20 (g) “Sacramento-San Joaquin Valley” means lands in the bed
21 or along or near the banks of the Sacramento River or San Joaquin
22 River, or their tributaries or connected therewith, or upon any land
23 adjacent thereto, or within the overflow basins thereof, or upon
24 land susceptible to overflow therefrom. The Sacramento-San
25 Joaquin Valley does not include lands lying within the Tulare Lake
26 basin, including the Kings River.

27 (h) “State Plan of Flood Control” has the same meaning as that
28 set forth in subdivision (j) of Section 5096.805 of the Public
29 Resources Code.

30 (i) “Urban area” means a developed area in which there are
31 10,000 residents or more.

32 (j) “Urbanizing area” means a developed area or an area outside
33 a developed area that is planned or anticipated to have 10,000
34 residents or more within the next 10 years.

35 (k) “Urban level of flood protection” means the level of
36 protection that is necessary to withstand flooding that has a
37 1-in-200 chance of occurring in any given year using criteria
38 consistent with, or developed by, the Department of Water
39 Resources.

1 ~~SEC. 112.~~

2 ~~SEC. 111.~~ Section 65865.5 of the Government Code is amended
3 to read:

4 65865.5. (a) Notwithstanding any other provision of law, after
5 the amendments required by ~~Section~~ *Sections* 65302.9 and 65860.1
6 have become effective, the legislative body of a city or county
7 within the Sacramento-San Joaquin Valley shall not enter into a
8 development agreement for property that is located within a flood
9 hazard zone unless the city or county finds, based on substantial
10 evidence in the record, one of the following:

11 (1) The facilities of the State Plan of Flood Control or other
12 flood management facilities protect the property to the urban level
13 of flood protection in urban and urbanizing areas or the national
14 Federal Emergency Management Agency standard of flood
15 protection in nonurbanized areas.

16 (2) The city or county has imposed conditions on the
17 development agreement that will protect the property to the urban
18 level of flood protection in urban and urbanizing areas or the
19 national Federal Emergency Management Agency standard of
20 flood protection in nonurbanized areas.

21 (3) The local flood management agency has made adequate
22 progress on the construction of a flood protection system that will
23 result in flood protection equal to or greater than the urban level
24 of flood protection in urban or urbanizing areas or the national
25 Federal Emergency Management Agency standard of flood
26 protection in nonurbanized areas for property located within a
27 flood hazard zone, intended to be protected by the system. For
28 urban and urbanizing areas protected by project levees, the urban
29 level of flood protection shall be achieved by 2025.

30 (b) The effective date of amendments referred to in this section
31 shall be the date upon which the statutes of limitation specified in
32 subdivision (c) of Section 65009 have run or, if the amendments
33 and any associated environmental documents are challenged in
34 court, the validity of the amendments and any associated
35 environmental documents has been upheld in a final decision.

36 (c) This section does not change or diminish existing
37 requirements of local flood plain management laws, ordinances,
38 resolutions, or regulations necessary to local agency participation
39 in the national flood insurance program.

1 ~~SEC. 113.~~

2 *SEC. 112.* Section 65917.5 of the Government Code is amended
3 to read:

4 65917.5. (a) As used in this section, the following terms shall
5 have the following meanings:

6 (1) “Child care facility” means a facility installed, operated, and
7 maintained under this section for the nonresidential care of children
8 as defined under applicable state licensing requirements for the
9 facility.

10 (2) “Density bonus” means a floor area ratio bonus over the
11 otherwise maximum allowable density permitted under the
12 applicable zoning ordinance and land use elements of the general
13 plan of a city, including a charter city, city and county, or county
14 of:

15 (A) A maximum of five square feet of floor area for each one
16 square foot of floor area contained in the child care facility for
17 existing structures.

18 (B) A maximum of 10 square feet of floor area for each one
19 square foot of floor area contained in the child care facility for
20 new structures.

21 For purposes of calculating the density bonus under this section,
22 both indoor and outdoor square footage requirements for the child
23 care facility as set forth in applicable state child care licensing
24 requirements shall be included in the floor area of the child care
25 facility.

26 (3) “Developer” means the owner or other person, including a
27 lessee, having the right under the applicable zoning ordinance of
28 a city council, including a charter city council, city and county
29 board of supervisors, or county board of supervisors to make an
30 application for development approvals for the development or
31 redevelopment of a commercial or industrial project.

32 (4) “Floor area” means as to a commercial or industrial project,
33 the floor area as calculated under the applicable zoning ordinance
34 of a city council, including a charter city council, city and county
35 board of supervisors, or county board of supervisors and as to a
36 child care facility, the total area contained within the exterior walls
37 of the facility and all outdoor areas devoted to the use of the facility
38 in accordance with applicable state child care licensing
39 requirements.

1 (b) A city council, including a charter city council, city and
2 county board of supervisors, or county board of supervisors may
3 establish a procedure by ordinance to grant a developer of a
4 commercial or industrial project, containing at least 50,000 square
5 feet of floor area, a density bonus when that developer has set aside
6 at least 2,000 square feet of floor area and 3,000 outdoor square
7 feet to be used for a child care facility. The granting of a bonus
8 shall not preclude a city council, including a charter city council,
9 city and county board of supervisors, or county board of
10 supervisors from imposing necessary conditions on the project or
11 on the additional square footage. Projects constructed under this
12 section shall conform to height, setback, lot coverage, architectural
13 review, site plan review, fees, charges, and other health, safety,
14 and zoning requirements generally applicable to construction in
15 the zone in which the property is located. A consortium with more
16 than one developer may be permitted to achieve the threshold
17 amount for the available density bonus with each developer's
18 density bonus equal to the percentage participation of the
19 developer. This facility may be located on the project site or may
20 be located offsite as agreed upon by the developer and local agency.
21 If the child care facility is not located on the site of the project,
22 the local agency shall determine whether the location of the child
23 care facility is appropriate and whether it conforms with the intent
24 of this section. The child care facility shall be of a size to comply
25 with all state licensing requirements in order to accommodate at
26 least 40 children.

27 (c) The developer may operate the child care facility itself or
28 may contract with a licensed child care provider to operate the
29 facility. In all cases, the developer shall show ongoing coordination
30 with a local child care resource and referral network or local
31 governmental child care coordinator in order to qualify for the
32 density bonus.

33 (d) If the developer uses space allocated for child care facility
34 purposes, in accordance with subdivision (b), for purposes other
35 than for a child care facility, an assessment based on the square
36 footage of the project may be levied and collected by the city
37 council, including a charter city council, city and county board of
38 supervisors, or county board of supervisors. The assessment shall
39 be consistent with the market value of the space. If the developer
40 fails to have the space allocated for the child care facility within

1 three years, from the date upon which the first temporary certificate
2 of occupancy is granted, an assessment based on the square footage
3 of the project may be levied and collected by the city council,
4 including a charter city council, city and county board of
5 supervisors, or county board of supervisors in accordance with
6 procedures to be developed by the legislative body of the city
7 council, including a charter city council, city and county board of
8 supervisors, or county board of supervisors. The assessment shall
9 be consistent with the market value of the space. A penalty levied
10 against a consortium of developers shall be charged to each
11 developer in an amount equal to the developer's percentage square
12 feet participation. Funds collected pursuant to this subdivision
13 shall be deposited by the city council, including a charter city
14 council, city and county board of supervisors, or county board of
15 supervisors into a special account to be used for child care services
16 or child care facilities.

17 (e) Once the child care facility has been established, prior to
18 the closure, change in use, or reduction in the physical size of, the
19 facility, the city, city council, including a charter city council, city
20 and county board of supervisors, or county board of supervisors
21 shall be required to make a finding that the need for child care is
22 no longer present, or is not present to the same degree as it was at
23 the time the facility was established.

24 (f) The requirements of Chapter 5 (commencing with Section
25 66000) and of the amendments made to Sections 53077, 54997,
26 and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply
27 to actions taken in accordance with this section.

28 (g) This section shall not apply to a voter-approved ordinance
29 adopted by referendum or initiative.

30 ~~SEC. 114.~~

31 *SEC. 113.* Section 65962 of the Government Code is amended
32 to read:

33 65962. (a) Notwithstanding any other provision of law, after
34 the amendments required by Sections 65302.9 and 65860.1 have
35 become effective, each city and county within the Sacramento-San
36 Joaquin Valley shall not approve a discretionary permit or other
37 discretionary entitlement, or a ministerial permit that would result
38 in the construction of a new residence, for a project that is located
39 within a flood hazard zone unless the city or county finds, based
40 on substantial evidence in the record, one of the following:

1 (1) The facilities of the State Plan of Flood Control or other
2 flood management facilities protect the project to the urban level
3 of flood protection in urban and urbanizing areas or the national
4 Federal Emergency Management Agency standard of flood
5 protection in nonurbanized areas.

6 (2) The city or county has imposed conditions on the permit or
7 discretionary entitlement that will protect the project to the urban
8 level of flood protection in urban and urbanizing areas or the
9 national Federal Emergency Management Agency standard of
10 flood protection in nonurbanized areas.

11 (3) The local flood management agency has made adequate
12 progress on the construction of a flood protection system which
13 will result in flood protection equal to or greater than the urban
14 level of flood protection in urban or urbanizing areas or the national
15 Federal Emergency Management Agency standard of flood
16 protection in nonurbanized areas for property located within a
17 flood hazard zone, intended to be protected by the system. For
18 urban and urbanizing areas protected by project levees, the urban
19 level of flood protection shall be achieved by 2025.

20 (b) The effective date of amendments referred to in this section
21 shall be the date upon which the statutes of limitation specified in
22 subdivision (c) of Section 65009 have run or, if the amendments
23 and any associated environmental documents are challenged in
24 court, the validity of the amendments and any associated
25 environmental documents has been upheld in a final decision.

26 (c) This section does not change or diminish existing
27 requirements of local flood plain management laws, ordinances,
28 resolutions, or regulations necessary to local agency participation
29 in the national flood insurance program.

30 ~~SEC. 115.~~

31 *SEC. 114.* Section 66474.5 of the Government Code is amended
32 to read:

33 66474.5. (a) Notwithstanding any other provision of law, after
34 the amendments required by Sections 65302.9 and 65860.1 have
35 become effective, the legislative body of each city and county
36 within the Sacramento-San Joaquin Valley shall deny approval of
37 a tentative map, or a parcel map for which a tentative map was not
38 required, for a subdivision that is located within a flood hazard
39 zone unless the city or county finds, based on substantial evidence
40 in the record, one of the following:

1 (1) The facilities of the State Plan of Flood Control or other
2 flood management facilities protect the subdivision to the urban
3 level of flood protection in urban and urbanizing areas or the
4 national Federal Emergency Management Agency standard of
5 flood protection in nonurbanized areas.

6 (2) The city or county has imposed conditions on the subdivision
7 that will protect the project to the urban level of flood protection
8 in urban and urbanizing areas or the national Federal Emergency
9 Management Agency standard of flood protection in nonurbanized
10 areas.

11 (3) The local flood management agency has made adequate
12 progress on the construction of a flood protection system which
13 will result in flood protection equal to or greater than the urban
14 level of flood protection in urban or urbanizing areas or the national
15 Federal Emergency Management Agency standard of flood
16 protection in nonurbanized areas for property located within a
17 flood hazard zone, intended to be protected by the system. For
18 urban and urbanizing areas protected by project levees, the urban
19 level of flood protection shall be achieved by 2025.

20 (b) The effective date of amendments referred to in this section
21 shall be the date upon which the statutes of limitation specified in
22 subdivision (c) of Section 65009 have run or, if the amendments
23 and any associated environmental documents are challenged in
24 court, the validity of the amendments and any associated
25 environmental documents has been upheld in a final decision.

26 (c) This section does not change or diminish existing
27 requirements of local flood plain management laws, ordinances,
28 resolutions, or regulations necessary to local agency participation
29 in the national flood insurance program.

30 ~~SEC. 116.~~

31 *SEC. 115.* Section 66474.62 of the Government Code is
32 amended to read:

33 66474.62. In cities having a population of more than 2,800,000,
34 a legislative body shall not deny approval of a final subdivision
35 map pursuant to Section 66474.61 if it, the advisory agency, or
36 the appeal board has previously approved a tentative map for the
37 proposed subdivision and if it finds that the final map is in
38 substantial compliance with the previously approved tentative map
39 and with the conditions to the approval thereof.

1 ~~SEC. 117.~~

2 *SEC. 116.* Section 66540.1 of the Government Code is amended
3 to read:

4 66540.1. The Legislature hereby finds and declares all of the
5 following:

6 (a) In 1999, based on the findings and analyses in a study
7 sponsored by the Bay Area Council, the Legislature created the
8 San Francisco Bay Area Water Transit Authority for purposes of
9 preparing a bay area water transit implementation and operations
10 plan and operating a comprehensive regional public water
11 transportation system. In 2002, after two years of study, public
12 hearings, collaboration with existing bay area transit and public
13 transportation ferry service providers, and peer review, the San
14 Francisco Bay Area Water Transit Authority submitted the required
15 plan to the Legislature. The plan included rationale for expanded
16 ferries, ridership projections and routes, potential terminal
17 locations, capital, operating and maintenance costs, vessel
18 specification, and emergency and safety response capabilities.

19 (b) While the efforts of the existing San Francisco Bay Area
20 Water Transit Authority to develop a regional water transit plan
21 are commendable, the country has seen several significant disasters,
22 including the 9/11 tragedy and Hurricane Katrina, which have
23 emphasized the need for coordinated emergency response. From
24 the lessons learned from those events, it is apparent that the bay
25 area's current emergency response infrastructure is not sufficient
26 to respond to emergencies of the magnitude witnessed in the past
27 few years and anticipated in the future.

28 (c) In 2006, the Bay Area Council sponsored a study on the role
29 a comprehensive public water transportation system would play
30 in the bay area's emergency response infrastructure. The 2006
31 study found that a comprehensive water transportation system is
32 vital to emergency preparedness and response for the region. If
33 bridges, roads, highways, tunnels, and trains are out of service as
34 a result of an emergency, only the waters of the bay are certain to
35 remain open for traffic. However, current infrastructure and
36 equipment capabilities are grossly inadequate. Ferry terminals
37 exist in only a few locations on the bay, and the vessel fleet lacks
38 the capacity to make up for even one out-of-service bridge. The
39 few vessels that exist are in the hands of many different public and

1 private owners and operators, and there is no detailed plan or
2 identified leader to activate and coordinate them.

3 (d) The study further urged that action be taken immediately to
4 strengthen and expand the regional public water transportation
5 system so that the bay area would be prepared in the event of a
6 catastrophic emergency. The San Francisco Bay area is almost
7 certain to experience moderate to severe earthquakes in the
8 foreseeable future. A major earthquake or a series of earthquakes
9 on any of the region's faults would have the potential of closing
10 thousands of area roads and rendering some or all transbay bridges
11 and mass transit lines impassable. With the regional transportation
12 system disabled, first responders would be unable to help tens of
13 thousands of homeless, injured, and starving victims. A failure of
14 transportation would be particularly devastating to the most
15 vulnerable of our population, the elderly, children, and the poor.
16 The loss of any portion of the regional transportation system, from
17 either a natural or manmade disaster, would place lives and
18 property at risk and would seriously undermine the San Francisco
19 Bay area economy.

20 (e) It is the responsibility of the state to protect and preserve
21 the right of its citizens to a safe and peaceful existence. To
22 accomplish this goal and to minimize the destructive impact of
23 disasters and other massive emergencies, the actions of numerous
24 public agencies must be coordinated to effectively manage all four
25 phases of emergency activity: preparedness, mitigation, response,
26 and recovery. It is a matter of statewide interest to establish an
27 expanded and coordinated regional water transportation system to
28 provide necessary security, flexibility, and mobility for disaster
29 response and recovery in the San Francisco Bay area. This
30 transcends any local interest, and requires a single governmental
31 entity with appropriate powers and scope of authority to serve this
32 statewide interest.

33 (f) As emergencies and other catastrophic events are certain
34 (only the timing is unpredictable), it is crucial for immediate action
35 to be taken to develop and implement these emergency response
36 strategies. It is not only impractical, but rather impossible, to cobble
37 together an emergency water transportation system after the fact.
38 It is a task of years, not months, to make the real changes and
39 create the essential infrastructure for an integrated and
40 comprehensive water transit emergency system. In light of the

1 ever-present threat, it is imperative to begin this crucial effort
2 without delay.

3 (g) The public interest requires swift action and steadfast resolve
4 to prepare for the coming earthquakes, as well as other
5 emergencies, with the speed and determination that is due for a
6 threat of this magnitude. The water transit emergency response
7 and recovery system must be fully implemented as quickly as
8 possible, as if the lives of bay area residents depend on it, because
9 they do.

10 (h) It is a matter of statewide interest to stimulate the maximum
11 use of the San Francisco Bay for emergency response and recovery.
12 The geographical situation of the San Francisco Bay makes it ideal
13 for emergency response and recovery, but at the same time prevents
14 the full utilization of the bay by acting as a physical barrier to an
15 effective transportation system between the various jurisdictions
16 surrounding the bay. Only a specially created local entity of
17 regional government can freely operate in the numerous individual
18 units of county, city and county, and city governments located in
19 the area. In order to protect the lives and livelihoods of the bay
20 area, the Legislature in this act establishes a new governmental
21 entity specifically charged and empowered with the responsibility
22 to plan, implement, and manage these critical services and facilities,
23 as a matter of the utmost urgency.

24 ~~SEC. 118.~~

25 *SEC. 117.* Section 66540.9 of the Government Code is amended
26 to read:

27 66540.9. In order to properly plan and provide for emergency
28 water transportation services and facilities, the authority shall have
29 the authority to plan, develop, and operate all aspects of water
30 transportation facilities within the bay area region, including, but
31 not limited to, the location and development of terminals, parking
32 lots and structures, and all other facilities and services necessary
33 to serve passengers and other customers of the water transportation
34 services system.

35 ~~SEC. 119.~~

36 *SEC. 118.* Section 66540.10 of the Government Code is
37 amended to read:

38 66540.10. The San Francisco Bay Area Water Transit Authority
39 shall transfer the title and ownership of all property within its
40 control and ownership to the authority. Funds necessary for the

1 establishment and organization of the authority, as determined by
2 the board, shall be transferred immediately upon request by the
3 authority. All other transfers shall be consistent with the transition
4 plan required under subdivision (b) of Section 66540.32 and shall
5 include, but not be limited to, all of the following:

6 (a) All real and personal property, including, but not limited to,
7 all terminals, ferries, vehicles or facilities, parking facilities for
8 passengers and employees, and related buildings and facilities
9 convenient or necessary to operate, support, maintain, and manage
10 the water transportation services system and its services to
11 customers.

12 (b) All contracts with tenants, concessionaires, leaseholders,
13 and others.

14 (c) All financial obligations secured by revenues and fees
15 generated from the operations of the water transportation services
16 system, including, but not limited to, bonded indebtedness
17 associated with the water transportation services system.

18 (d) All financial reserves, including, but not limited to, sinking
19 funds and other credits.

20 (e) All office equipment, including, but not limited to,
21 computers, records and files, and software required for financial
22 management, personnel management, and accounting and inventory
23 systems.

24 ~~SEC. 120.~~

25 *SEC. 119.* Section 66540.12 of the Government Code is
26 amended to read:

27 66540.12. (a) The authority shall be governed by a board
28 composed of five members, as follows:

29 (1) Three members shall be appointed by the Governor, subject
30 to confirmation by the Senate. The Governor shall make the initial
31 appointment of these members of the board no later than January
32 11, 2008.

33 (2) One member shall be appointed by the Senate Committee
34 on Rules.

35 (3) One member shall be appointed by the Speaker of the
36 Assembly.

37 (b) Each member of the board shall be a resident of a county in
38 the bay area region.

39 (c) Public officers associated with an area of government,
40 including planning or water, whether elected or appointed, may

1 be appointed to serve contemporaneously as members of the board.
2 A local jurisdiction or agency shall not have more than one
3 representative on the board of the authority.

4 (d) The Governor shall designate one member as the chair of
5 the board and one member as the vice chair of the board.

6 (e) The term of a member of the board shall be six years.

7 (f) Vacancies shall be filled immediately by the appointing
8 power for the unexpired portion of the terms in which they occur.

9 ~~SEC. 121.~~

10 *SEC. 120.* Section 66540.32 of the Government Code is
11 amended to read:

12 66540.32. (a) The authority shall create and adopt, on or before
13 July 1, 2009, an emergency water transportation system
14 management plan for water transportation services in the bay area
15 region in the event that bridges, highways, and other facilities are
16 rendered wholly or significantly inoperable.

17 (b) The authority shall create and adopt, on or before January
18 1, 2009, a transition plan to facilitate the transfer of existing public
19 transportation ferry services within the bay area region to the
20 authority pursuant to this title. In the preparation of the transition
21 plan, priority shall be given to ensuring continuity in the programs,
22 services, and activities of existing public transportation ferry
23 services.

24 (c) In developing the plans described in subdivisions (a) and
25 (b), the authority shall cooperate to the fullest extent possible with
26 the Metropolitan Transportation Commission, the state Office of
27 Emergency Services, the Association of Bay Area Governments,
28 and the San Francisco Bay Conservation and Development
29 Commission, and shall, to the fullest extent possible, coordinate
30 its planning with local agencies, including those local agencies
31 that operated, or contracted for the operation of, public water
32 transportation services as of ~~the effective date of this title~~ *January*
33 *1, 2008*. To avoid duplication of work, the authority shall make
34 maximum use of data and information available from the planning
35 programs of the Metropolitan Transportation Commission, the
36 state Office of Emergency Services, the Association of Bay Area
37 Governments, the San Francisco Bay Conservation and
38 Development Commission, the cities and counties in the San
39 Francisco Bay area, and other public and private planning agencies.
40 In addition, the authority shall consider both of the following:

1 (1) The San Francisco Bay Area Water Transit Implementation
2 and Operations Plan adopted by the San Francisco Bay Area Water
3 Transit Authority on July 10, 2003.

4 (2) Any other plan concerning water transportation within the
5 bay area region developed or adopted by a general purpose local
6 government or special district that operates or sponsors water
7 transit, including, but not limited to, those water transportation
8 services provided under agreement with a private operator.

9 (d) The authority shall prepare a specific transition plan for any
10 transfer not anticipated by the transition plan required under
11 subdivision (b).

12 (e) At least 45 days prior to adoption of the plans required by
13 subdivisions (a) and (b), the authority shall provide a copy of the
14 plan adopted pursuant to subdivision (a) and the plan adopted
15 pursuant to subdivision (b) to each city and county in the bay area
16 region. Any of these cities or counties may provide comments on
17 these plans to the authority.

18 ~~SEC. 122.~~

19 *SEC. 121.* Section 66540.34 of the Government Code, as added
20 by Section 2, first occurrence, of Chapter 734 of the Statutes of
21 2007, is amended and renumbered to read:

22 66540.33. The authority shall refer for recommendation the
23 plans of routes, rights of way, terminals, yards, and related facilities
24 and improvements to the city councils and boards of supervisors
25 within the jurisdiction of which those facilities and improvements
26 lie and to other state, regional, and local agencies and commissions
27 as may be deemed appropriate by the authority. The authority shall
28 give due consideration to all recommendations submitted.

29 ~~SEC. 123.~~

30 *SEC. 122.* Section 66540.54 of the Government Code is
31 amended to read:

32 66540.54. (a) The authority shall maintain accounting records
33 and shall report accounting transactions in accordance with
34 generally accepted accounting principles as adopted by the
35 Governmental Accounting Standards Board (GASB) of the
36 Financial Accounting Foundation for both public reporting
37 purposes and for reporting of activities to the Controller.

38 (b) The authority shall contract with an independent certified
39 public accountant for an annual audit of the financial records,
40 books, and performance of the authority. The accountant shall

1 submit a report of the audit to the board and the board shall make
2 copies of the report available to the public and the appropriate
3 policy and fiscal committees of the Legislature.

4 ~~SEC. 124.~~

5 *SEC. 123.* Section 69615 of the Government Code is amended
6 to read:

7 69615. (a) It is the intent of the Legislature in enacting this
8 section to restore an appropriate balance between subordinate
9 judicial officers and judges in the trial courts by providing for the
10 conversion, as needed, of subordinate judicial officer positions to
11 judgeships in courts that assign subordinate judicial officers to act
12 as temporary judges. The Legislature finds that these positions
13 must be converted to judgeships in order to ensure that critical
14 case types, including family, probate, and juvenile law matters,
15 can be heard by judges.

16 (b) (1) (A) Sixteen subordinate judicial officer positions in
17 eligible superior courts, as determined by the Judicial Council
18 pursuant to uniform criteria for determining the need for converting
19 existing subordinate judicial officer positions to superior court
20 judgeships, shall be converted to judgeships as set forth in
21 paragraph (2).

22 (B) Upon subsequent authorization by the Legislature, 146
23 subordinate judicial officer positions in eligible superior courts,
24 as determined by the Judicial Council pursuant to uniform criteria
25 for determining the need for converting existing subordinate
26 judicial officer positions to superior court judgeships, shall be
27 converted to judgeships as set forth in paragraphs (2) and (3),
28 except that no more than 16 subordinate judicial officer positions
29 may be converted in any fiscal year.

30 (2) The positions for conversion shall be allocated each fiscal
31 year pursuant to uniform allocation standards to be developed by
32 the Judicial Council for factually determining the relative judicial
33 need for conversion of a subordinate judicial officer position that
34 becomes vacant to a superior court judgeship position.

35 (3) Beginning in the 2008–09 fiscal year, a subordinate judicial
36 officer position shall be converted to a judgeship when all of the
37 following conditions are met:

38 (A) A vacancy occurs in a subordinate judicial officer position
39 in an eligible superior court as determined by the uniform allocation
40 standards described in paragraph (2).

1 (B) The Judicial Council files notice of the vacancies and
2 allocations with the Chairperson of the Senate Committee on Rules,
3 the Speaker of the Assembly, and the Chairpersons of the Senate
4 and Assembly Committees on Judiciary.

5 (C) The proposed action is ratified by the Legislature, either in
6 the annual Budget Act or another legislative measure.

7 (4) Section 12011.5 shall apply to an appointment to a superior
8 court judgeship converted from a subordinate judicial officer
9 position.

10 (c) For purposes of this section, “subordinate judicial officer”
11 means an officer appointed under the authority of Section 22 of
12 Article VI of the California Constitution. This section shall not
13 apply to a subordinate judicial officer position established by
14 Section 4251 of the Family Code.

15 (d) It is the intent of the Legislature that no subordinate judicial
16 officer shall involuntarily lose his or her position solely due to
17 operation of this section. This section does not change the
18 employment relationship between subordinate judicial officers and
19 the trial courts established by law.

20 (e) This section does not limit the authority of the Governor to
21 appoint a person to fill a vacancy pursuant to subdivision (c) of
22 Section 16 of Article VI of the California Constitution.

23 (f) This section does not entitle a court to an increase in funding.

24 (g) The operation of this section shall neither increase nor
25 decrease the number of judicial and subordinate judicial officer
26 positions and court support positions for which a county is
27 responsible by law.

28 ~~SEC. 125.~~

29 *SEC. 124.* Section 70375 of the Government Code is amended
30 to read:

31 70375. (a) This article shall take effect on January 1, 2003,
32 and the fund, penalty, and fee assessment established by this article
33 shall become operative on January 1, 2003, except as otherwise
34 provided in this article.

35 (b) In each county, the five-dollar (\$5) penalty amount
36 authorized by subdivision (a) of Section 70372 shall be reduced
37 by the following:

38 (1) The amount collected for deposit into the local courthouse
39 construction fund established pursuant to Section 76100. If a county
40 board of supervisors elects to distribute part of the county penalty

1 authorized by Section 76000 to the local courthouse construction
2 fund, the amount of the contribution for each seven dollars (\$7) is
3 the difference between seven dollars (\$7) and the amount shown
4 for the county penalty in subdivision (e) of Section 76000.

5 (2) The amount collected for transmission to the state for
6 inclusion in the Transitional State Court Facilities Construction
7 Fund established pursuant to Section 70401 to the extent it is
8 funded by moneys from the local courthouse construction fund.

9 (c) The authority for all of the following shall expire
10 proportionally on June 30 following the date of transfer of
11 responsibility for facilities from the county to the Judicial Council,
12 except so long as moneys are needed to pay for construction
13 provided for in those sections and undertaken prior to the transfer
14 of responsibility for facilities from the county to the Judicial
15 Council:

16 (1) An additional penalty for a local courthouse construction
17 fund established pursuant to Section 76100.

18 (2) A filing fee surcharge in the County of Riverside established
19 pursuant to Section 70622.

20 (3) A filing fee surcharge in the County of San Bernardino
21 established pursuant to Section 70624.

22 (4) A filing fee surcharge in the City and County of San
23 Francisco established pursuant to Section 70625.

24 (d) For purposes of subdivision (c), “proportionally” means the
25 proportion of the fee or surcharge that shall expire upon the transfer
26 of responsibility for a facility that is the same proportion as the
27 square footage that facility bears to the total square footage of
28 court facilities in that county.

29 ~~SEC. 126.~~

30 *SEC. 125.* Section 70391 of the Government Code is amended
31 to read:

32 70391. The Judicial Council, as the policymaking body for the
33 judicial branch, shall have the following responsibilities and
34 authorities with regard to court facilities, in addition to any other
35 responsibilities or authorities established by law:

36 (a) Exercise full responsibility, jurisdiction, control, and
37 authority as an owner would have over trial court facilities the title
38 of which is held by the state, including, but not limited to, the
39 acquisition and development of facilities.

1 (b) Exercise the full range of policymaking authority over trial
2 court facilities, including, but not limited to, planning, construction,
3 acquisition, and operation, to the extent not expressly otherwise
4 limited by law.

5 (c) Dispose of surplus court facilities following the transfer of
6 responsibility under Article 3 (commencing with Section 70321),
7 subject to all of the following:

8 (1) If the property was a court facility previously the
9 responsibility of the county, the Judicial Council shall comply
10 with the requirements of Section 11011, and as follows, except
11 that, notwithstanding any other provision of law, the proportion
12 of the net proceeds that represents the proportion of other state
13 funds used on the property other than for operation and
14 maintenance shall be returned to the fund from which it came and
15 the remainder of the proceeds shall be deposited in the State Court
16 Facilities Construction Fund.

17 (2) The Judicial Council shall consult with the county
18 concerning the disposition of the facility. Notwithstanding any
19 other law, including Section 11011, when requested by the
20 transferring county, a surplus facility shall be offered to that county
21 at fair market value prior to being offered to another state agency
22 or local government agency.

23 (3) The Judicial Council shall consider whether the potential
24 new or planned use of the facility:

25 (A) Is compatible with the use of other adjacent public buildings.

26 (B) Unreasonably departs from the historic or local character
27 of the surrounding property or local community.

28 (C) Has a negative impact on the local community.

29 (D) Unreasonably interferes with other governmental agencies
30 that use or are located in or adjacent to the building containing the
31 court facility.

32 (E) Is of sufficient benefit to outweigh the public good in
33 maintaining it as a court facility or building.

34 (4) All funds received for disposal of surplus court facilities
35 shall be deposited by the Judicial Council in the State Court
36 Facilities Construction Fund.

37 (5) If the facility was acquired, rehabilitated, or constructed, in
38 whole or in part, with moneys in the State Court Facilities
39 Construction Fund that were deposited in that fund from the state
40 fund, any funds received for disposal of that facility shall be

1 apportioned to the state fund and the State Court Facilities
2 Construction Fund in the same proportion that the original cost of
3 the building was paid from the state fund and other sources of the
4 State Court Facilities Construction Fund.

5 (6) Submission of a plan to the Legislature for the disposition
6 of court facilities transferred to the state prior to, or as part of, a
7 budget submission to fund a new courthouse that will replace the
8 existing court facilities transferred to the state.

9 (d) Conduct audits of all of the following:

10 (1) The collection of fees by the local courts.

11 (2) The moneys in local courthouse construction funds
12 established pursuant to Section 76100.

13 (e) Establish policies, procedures, and guidelines for ensuring
14 that the courts have adequate and sufficient facilities, including,
15 but not limited to, facilities planning, acquisition, construction,
16 design, operation, and maintenance.

17 (f) Establish and consult with local project advisory groups on
18 the construction of new trial court facilities, including the trial
19 court, the county, state agencies, bar groups, and members of the
20 community.

21 (g) Manage court facilities in consultation with the trial courts.

22 (h) Allocate appropriated funds for court facilities maintenance
23 and construction, subject to the other provisions of this chapter.

24 (i) Manage shared-use facilities to the extent required by the
25 agreement under Section 70343.

26 (j) Prepare funding requests for court facility construction,
27 repair, and maintenance.

28 (k) Implement the design, bid, award, and construction of all
29 court construction projects, except as delegated to others.

30 (l) Provide for capital outlay projects that may be built with
31 funds appropriated or otherwise available for these purposes as
32 follows:

33 (1) Approve five-year and master plans for each district.

34 (2) Establish priorities for construction.

35 (3) Recommend to the Governor and the Legislature the projects
36 to be funded by the State Court Facilities Construction Fund.

37 (4) Submit the cost of projects proposed to be funded to the
38 Department of Finance for inclusion in the Governor's Budget.

39 (m) In carrying out its responsibilities and authority under this
40 section, the Judicial Council shall consult with the local court for:

1 (1) Selecting and contracting with facility consultants.
2 (2) Preparing and reviewing architectural programs and designs
3 for court facilities.

4 (3) Preparing strategic master and five-year capital facilities
5 plans.

6 (4) Major maintenance of a facility.

7 ~~SEC. 127.~~

8 *SEC. 126.* Section 76000 of the Government Code is amended
9 to read:

10 76000. (a) (1) Except as otherwise provided in this section,
11 in each county there shall be levied an additional penalty in the
12 amount of seven dollars (\$7) for every ten dollars (\$10), or part
13 of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed
14 and collected by the courts for all criminal offenses, including all
15 offenses involving a violation of the Vehicle Code or a local
16 ordinance adopted pursuant to the Vehicle Code.

17 (2) The additional penalty shall be collected together with and
18 in the same manner as the amounts established by Section 1464
19 of the Penal Code. The moneys shall be taken from fines and
20 forfeitures deposited with the county treasurer prior to any division
21 pursuant to Section 1463 of the Penal Code. The county treasurer
22 shall deposit those amounts specified by the board of supervisors
23 by resolution in one or more of the funds established pursuant to
24 this chapter. However, deposits to these funds shall continue
25 through whatever period of time is necessary to repay any
26 borrowings made by the county on or before January 1, 1991, to
27 pay for construction provided for in this chapter.

28 (3) This additional penalty does not apply to the following:

29 (A) A restitution fine.

30 (B) A penalty authorized by Section 1464 of the Penal Code or
31 this chapter.

32 (C) A parking offense subject to Article 3 (commencing with
33 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

34 (D) The state surcharge authorized by Section 1465.7 of the
35 Penal Code.

36 (b) In each authorized county, provided that the board of
37 supervisors has adopted a resolution stating that the implementation
38 of this subdivision is necessary to the county for the purposes
39 authorized, with respect to each authorized fund established
40 pursuant to Section 76100 or 76101, for every parking offense

1 where a parking penalty, fine, or forfeiture is imposed, an added
2 penalty of two dollars and fifty cents (\$2.50) shall be included in
3 the total penalty, fine, or forfeiture. Except as provided in
4 subdivision (c), for each parking case collected in the courts of the
5 county, the county treasurer shall place in each authorized fund
6 two dollars and fifty cents (\$2.50). The moneys shall be taken from
7 fines and forfeitures deposited with the county treasurer prior to
8 any division pursuant to Section 1462.3 or 1463.009 of the Penal
9 Code. The judges of the county shall increase the bail schedule
10 amounts as appropriate to reflect the added penalty provided for
11 by this section. In cities, districts, or other issuing agencies that
12 elect to accept parking penalties, and otherwise process parking
13 violations pursuant to Article 3 (commencing with Section 40200)
14 of Chapter 1 of Division 17 of the Vehicle Code, the city, district,
15 or issuing agency shall observe the increased bail amounts as
16 established by the court reflecting the added penalty provided for
17 by this section. Each agency that elects to process parking
18 violations shall pay to the county treasurer two dollars and fifty
19 cents (\$2.50) for each fund for each parking penalty collected on
20 each violation that is not filed in court. Those payments to the
21 county treasurer shall be made monthly, and the county treasurer
22 shall deposit all those sums in the authorized fund. An issuing
23 agency shall not be required to contribute revenues to a fund in
24 excess of those revenues generated from the surcharges established
25 in the resolution adopted pursuant to this chapter, except as
26 otherwise agreed upon by the local governmental entities involved.

27 (c) The county treasurer shall deposit one dollar (\$1) of every
28 two dollars and fifty cents (\$2.50) collected pursuant to subdivision
29 (b) into the general fund of the county.

30 (d) The authority to impose the two-dollar-and-fifty-cent (\$2.50)
31 penalty authorized by subdivision (b) shall be reduced to one dollar
32 (\$1) as of the date of transfer of responsibility for facilities from
33 the county to the Judicial Council pursuant to Article 3
34 (commencing with Section 70321) of Chapter 5.1, except as
35 moneys are needed to pay for construction provided for in Section
36 76100 and undertaken prior to the transfer of responsibility for
37 facilities from the county to the Judicial Council.

38 (e) The seven-dollar (\$7) additional penalty authorized by
39 subdivision (a) shall be reduced in each county by the additional
40 penalty amount assessed by the county for the local courthouse

1 construction fund established by Section 76100 as of January 1,
2 1998, when the moneys in that fund are transferred to the state
3 under Section 70402. The amount each county shall charge as an
4 additional penalty under this section shall be as follows:

5						
6	Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$6.00
7	Alpine	\$5.00	Mariposa	\$2.00	San Mateo	\$4.75
8	Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
9	Butte	\$6.00	Merced	\$5.00	Santa Clara	\$5.50
10	Calaveras	\$3.00	Modoc	\$4.00	Santa Cruz	\$7.00
11	Colusa	\$6.00	Mono	\$5.00	Shasta	\$3.50
12	Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
13	Del Norte	\$5.00	Napa	\$3.00	Siskiyou	\$5.00
14	El Dorado	\$5.00	Nevada	\$5.00	Solano	\$5.00
15	Fresno	\$7.00	Orange	\$3.50	Sonoma	\$5.00
16	Glenn	\$4.06	Placer	\$4.75	Stanislaus	\$5.00
17	Humboldt	\$5.00	Plumas	\$5.00	Sutter	\$3.00
18	Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
19	Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.26
20	Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
21	Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$5.00
22	Lake	\$7.00	San Diego	\$5.00	Ventura	\$5.00
23	Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00
24	Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
25	Madera	\$4.50				

26
27 ~~SEC. 128.~~

28 *SEC. 127.* Section 76000.5 of the Government Code is amended
29 to read:

30 76000.5. (a) (1) Except as otherwise provided in this section,
31 for purposes of supporting emergency medical services pursuant
32 to Chapter 2.5 (commencing with Section 1797.98a) of Division
33 2.5 of the Health and Safety Code, in addition to the penalties set
34 forth in Section 76000, the county board of supervisors may elect
35 to levy an additional penalty in the amount of two dollars (\$2) for
36 every ten dollars (\$10), or part of ten dollars (\$10), upon every
37 fine, penalty, or forfeiture imposed and collected by the courts for
38 all criminal offenses, including violations of Division 9
39 (commencing with Section 23000) of the Business and Professions
40 Code relating to the control of alcoholic beverages, and all offenses

1 involving a violation of the Vehicle Code or a local ordinance
2 adopted pursuant to the Vehicle Code. This penalty shall be
3 collected together with and in the same manner as the amounts
4 established by Section 1464 of the Penal Code.

5 (2) This additional penalty does not apply to the following:

6 (A) A restitution fine.

7 (B) A penalty authorized by Section 1464 of the Penal Code or
8 this chapter.

9 (C) A parking offense subject to Article 3 (commencing with
10 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

11 (D) The state surcharge authorized by Section 1465.7 of the
12 Penal Code.

13 (b) Funds shall be collected pursuant to subdivision (a) only if
14 the county board of supervisors provides that the increased
15 penalties do not offset or reduce the funding of other programs
16 from other sources, but that these additional revenues result in
17 increased funding to those programs.

18 (c) Moneys collected pursuant to subdivision (a) shall be taken
19 from fines and forfeitures deposited with the county treasurer prior
20 to any division pursuant to Section 1463 of the Penal Code.

21 (d) Funds collected pursuant to this section shall be deposited
22 into the Maddy Emergency Medical Services (EMS) Fund
23 established pursuant to Section 1797.98a of the Health and Safety
24 Code.

25 (e) This section shall remain in effect only until January 1, 2009,
26 and as of that date is repealed, unless a later enacted statute, that
27 is chaptered before January 1, 2009, deletes or extends that date.

28 ~~SEC. 129.~~

29 *SEC. 128.* Section 76104.1 of the Government Code is amended
30 to read:

31 76104.1. (a) (1) Except as otherwise provided in this section,
32 and notwithstanding any other provision of law, for purposes of
33 supporting emergency medical services pursuant to Chapter 2.5
34 (commencing with Section 1797.98a) of Division 2.5 of the Health
35 and Safety Code, in Santa Barbara County, a penalty in the amount
36 of five dollars (\$5) for every ten dollars (\$10), or part of ten dollars
37 (\$10), shall be imposed on every fine, penalty, or forfeiture
38 collected for all criminal offenses, including all offenses involving
39 a violation of the Vehicle Code or a local ordinance adopted
40 pursuant to the Vehicle Code. This penalty assessment shall be

1 collected together with and in the same manner as the amount
2 established by Section 1464 of the Penal Code.

3 (2) The penalty imposed by this section does not apply to the
4 following:

5 (A) A restitution fine.

6 (B) A penalty authorized by Section 1464 of the Penal Code or
7 this chapter.

8 (C) A parking offense subject to Article 3 (commencing with
9 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

10 (D) The state surcharge authorized by Section 1465.7 of the
11 Penal Code.

12 (b) Notwithstanding any other provision of law, for purposes
13 of supporting emergency medical services pursuant to Chapter 2.5
14 (commencing with Section 1797.98a) of Division 2.5 of the Health
15 and Safety Code, in Santa Barbara County, for every parking
16 offense, as defined in subdivision (i) of Section 1463 of the Penal
17 Code, where a parking penalty, fine, or forfeiture is imposed, an
18 added penalty of two dollars and fifty cents (\$2.50) shall be
19 included in the total penalty, fine, or forfeiture, together with and
20 in the same manner as the amount established pursuant to
21 subdivision (b) of Section 76000.

22 (c) The moneys collected pursuant to this section shall be held
23 by the county treasurer in the same manner, and shall be payable
24 for the same purposes, described in subdivision (e) of Section
25 76104.

26 (d) (1) Notwithstanding any provision of law to the contrary,
27 in the County of Santa Barbara, the distribution set forth in
28 subparagraph (B) of paragraph (5) of subdivision (b) of Section
29 1797.98a of the Health and Safety Code shall, instead, be 42
30 percent of the fund to hospitals providing disproportionate trauma
31 and emergency medical services to uninsured patients who do not
32 make any payment for services.

33 (2) Notwithstanding any provision of law to the contrary, in the
34 County of Santa Barbara, the 17-percent distribution set forth in
35 subparagraph (C) of paragraph (5) of subdivision (b) of Section
36 1797.98a of the Health and Safety Code shall not apply.

37 (e) This section shall be implemented only if the Santa Barbara
38 County Board of Supervisors adopts a resolution stating that
39 implementation of this section is necessary to the county for
40 purposes of providing payment for emergency medical services.

1 (f) This section shall remain in effect only until January 1, 2009,
2 and as of that date is repealed.

3 ~~SEC. 130.~~

4 *SEC. 129.* Section 76104.6 of the Government Code is amended
5 to read:

6 76104.6. (a) (1) Except as otherwise provided in this section,
7 for the purpose of implementing the DNA Fingerprint, Unsolved
8 Crime and Innocence Protection Act (Proposition 69), as approved
9 by the voters at the November 2, 2004, statewide general election,
10 there shall be levied an additional penalty of one dollar (\$1) for
11 every ten dollars (\$10), or part of ten dollars (\$10), in each county
12 upon every fine, penalty, or forfeiture imposed and collected by
13 the courts for all criminal offenses, including all offenses involving
14 a violation of the Vehicle Code or a local ordinance adopted
15 pursuant to the Vehicle Code.

16 (2) The penalty imposed by this section shall be collected
17 together with and in the same manner as the amounts established
18 by Section 1464 of the Penal Code. The moneys shall be taken
19 from fines and forfeitures deposited with the county treasurer prior
20 to any division pursuant to Section 1463 of the Penal Code. The
21 board of supervisors shall establish in the county treasury a DNA
22 Identification Fund into which shall be deposited the moneys
23 collected pursuant to this section. The moneys of the fund shall
24 be allocated pursuant to subdivision (b).

25 (3) The additional penalty does not apply to the following:

26 (A) A restitution fine.

27 (B) A penalty authorized by Section 1464 of the Penal Code or
28 this chapter.

29 (C) A parking offense subject to Article 3 (commencing with
30 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

31 (D) The state surcharge authorized by Section 1465.7 of the
32 Penal Code.

33 (b) (1) The fund moneys described in subdivision (a), together
34 with any interest earned thereon, shall be held by the county
35 treasurer separate from any funds subject to transfer or division
36 pursuant to Section 1463 of the Penal Code. Deposits to the fund
37 may continue through and including the 20th year after the initial
38 calendar year in which the surcharge is collected, or longer if and
39 as necessary to make payments upon any lease or leaseback
40 arrangement utilized to finance any of the projects specified herein.

1 (2) On the last day of each calendar quarter of the year specified
2 in this subdivision, the county treasurer shall transfer fund moneys
3 in the county's DNA Identification Fund to the Controller for credit
4 to the state's DNA Identification Fund, which is hereby established
5 in the State Treasury, as follows:

6 (A) In the first two calendar years following the effective date
7 of this section, 70 percent of the amounts collected, including
8 interest earned thereon.

9 (B) In the third calendar year following the effective date of
10 this section, 50 percent of the amounts collected, including interest
11 earned thereon.

12 (C) In the fourth calendar year following the effective date of
13 this section and in each calendar year thereafter, 25 percent of the
14 amounts collected, including interest earned thereon.

15 (3) Funds remaining in the county's DNA Identification Fund
16 shall be used only to reimburse local sheriff or other law
17 enforcement agencies to collect DNA specimens, samples, and
18 print impressions pursuant to this chapter; for expenditures and
19 administrative costs made or incurred to comply with the
20 requirements of paragraph (5) of subdivision (b) of Section 298
21 of the Penal Code, including the procurement of equipment and
22 software integral to confirming that a person qualifies for entry
23 into the Department of Justice DNA and Forensic Identification
24 Database and Data Bank Program; and to local sheriff, police,
25 district attorney, and regional state crime laboratories for
26 expenditures and administrative costs made or incurred in
27 connection with the processing, analysis, tracking, and storage of
28 DNA crime scene samples from cases in which DNA evidence
29 would be useful in identifying or prosecuting suspects, including
30 the procurement of equipment and software for the processing,
31 analysis, tracking, and storage of DNA crime scene samples from
32 unsolved cases.

33 (4) The state's DNA Identification Fund shall be administered
34 by the Department of Justice. Funds in the state's DNA
35 Identification Fund, upon appropriation by the Legislature, shall
36 be used by the Attorney General only to support DNA testing in
37 the state and to offset the impacts of increased testing and shall be
38 allocated as follows:

39 (A) Of the amount transferred pursuant to subparagraph (A) of
40 paragraph (2) of subdivision (b), 90 percent to the Department of

1 Justice DNA Laboratory, first, to comply with the requirements
2 of Section 298.3 of the Penal Code and, second, for expenditures
3 and administrative costs made or incurred in connection with the
4 processing, analysis, tracking, and storage of DNA specimens and
5 samples, including the procurement of equipment and software
6 for the processing, analysis, tracking, and storage of DNA samples
7 and specimens obtained pursuant to the DNA and Forensic
8 Identification Database and Data Bank Act of 1998, as amended
9 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of
10 the Penal Code, and 10 percent to the Department of Justice
11 Information Bureau Criminal History Unit for expenditures and
12 administrative costs that have been approved by the Chief of the
13 Department of Justice Bureau of Forensic Services made or
14 incurred to update equipment and software to facilitate compliance
15 with the requirements of subdivision (e) of Section 299.5 of the
16 Penal Code.

17 (B) Of the amount transferred pursuant to subparagraph (B) of
18 paragraph (2) of subdivision (b), funds shall be allocated by the
19 Department of Justice DNA Laboratory, first, to comply with the
20 requirements of Section 298.3 of the Penal Code and, second, for
21 expenditures and administrative costs made or incurred in
22 connection with the processing, analysis, tracking, and storage of
23 DNA specimens and samples, including the procurement of
24 equipment and software for the processing, analysis, tracking, and
25 storage of DNA samples and specimens obtained pursuant to the
26 DNA and Forensic Identification Database and Data Bank Act of
27 1998, as amended.

28 (C) Of the amount transferred pursuant to subparagraph (C) of
29 paragraph (2) of subdivision (b), funds shall be allocated by the
30 Department of Justice to the DNA Laboratory to comply with the
31 requirements of Section 298.3 of the Penal Code and for
32 expenditures and administrative costs made or incurred in
33 connection with the processing, analysis, tracking, and storage of
34 DNA specimens and samples, including the procurement of
35 equipment and software for the processing, analysis, tracking, and
36 storage of DNA samples and specimens obtained pursuant to the
37 DNA and Forensic Identification Database and Data Bank Act of
38 1998, as amended.

39 (c) On or before April 1 in the year following adoption of this
40 section, and annually thereafter, the board of supervisors of each

1 county shall submit a report to the Legislature and the Department
2 of Justice. The report shall include the total amount of fines
3 collected and allocated pursuant to this section, and the amounts
4 expended by the county for each program authorized pursuant to
5 paragraph (3) of subdivision (b). The Department of Justice shall
6 make the reports publicly available on the department's Internet
7 Web site.

8 (d) All requirements imposed on the Department of Justice
9 pursuant to the DNA Fingerprint, Unsolved Crime and Innocence
10 Protection Act are contingent upon the availability of funding and
11 are limited by revenue, on a fiscal year basis, received by the
12 Department of Justice pursuant to this section and any additional
13 appropriation approved by the Legislature for purposes related to
14 implementing this act.

15 (e) Upon approval of the DNA Fingerprint, Unsolved Crime
16 and Innocence Protection Act, the Legislature shall lend the
17 Department of Justice General Fund in the amount of seven million
18 dollars (\$7,000,000) for purposes of implementing the act. The
19 loan shall be repaid with interest calculated at the rate earned by
20 the Pooled Money Investment Account at the time the loan is made.
21 Principal and interest on the loan shall be repaid in full no later
22 than four years from the date the loan was made and shall be repaid
23 from revenue generated pursuant to this section.

24 ~~SEC. 131.~~

25 *SEC. 130.* Section 77200 of the Government Code is amended
26 to read:

27 77200. On and after July 1, 1997, the state shall assume sole
28 responsibility for the funding of court operations, as defined in
29 Section 77003 and Rule 10.810 of the California Rules of Court
30 as it read on January 1, 2007. In meeting this responsibility, the
31 state shall do all of the following:

32 (a) Deposit in the Trial Court Trust Fund, for subsequent
33 allocation to or for the trial courts, all county funds remitted to the
34 state pursuant to Section 77201 until June 30, 1998, pursuant to
35 Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive,
36 and pursuant to Section 77201.3, thereafter.

37 (b) Be responsible for the cost of court operations incurred by
38 the trial courts in the 1997-98 fiscal year and subsequent fiscal
39 years.

1 (c) Allocate funds to the individual trial courts pursuant to an
 2 allocation schedule adopted by the Judicial Council, but in no case
 3 shall the amount allocated to the trial court in a county be less than
 4 the amount remitted to the state by the county in which that court
 5 is located pursuant to paragraphs (1) and (2) of subdivision (b) of
 6 Section 77201 until June 30, 1998, pursuant to paragraphs (1) and
 7 (2) of subdivision (b) of Section 77201.1 from July 1, 1998, until
 8 June 30, 2006, inclusive, and pursuant to paragraphs (1) and (2)
 9 of subdivision (a) of Section 77201.3, thereafter.

10 (d) The Judicial Council shall submit its allocation schedule to
 11 the Controller at least five days before the due date of any
 12 allocation.

13 ~~SEC. 132.~~

14 *SEC. 131.* Section 77201.1 of the Government Code is amended
 15 to read:

16 77201.1. (a) Commencing on July 1, 1997, no county shall be
 17 responsible for funding court operations, as defined in Section
 18 77003 and Rule 10.810 of the California Rules of Court as it read
 19 on January 1, 2007.

20 (b) Commencing in the 1999–2000 fiscal year, and each fiscal
 21 year thereafter until the 2006–07 fiscal year, each county shall
 22 remit to the state in four equal installments due on October 1,
 23 January 1, April 1, and May 1, the amounts specified in paragraphs
 24 (1) and (2). For the purpose of determining the counties’ payments
 25 commencing in the 2006–07 fiscal year, and each fiscal year
 26 thereafter, the amounts listed in subdivision (a) of Section 77201.3
 27 shall be used in lieu of the amounts listed in this subdivision.

28 (1) Except as otherwise specifically provided in this section,
 29 each county shall remit to the state the amount listed below, which
 30 is based on an amount expended by the respective county for court
 31 operations during the 1994–95 fiscal year:

Jurisdiction	Amount
34 Alameda.....	\$ 22,509,905
35 Alpine.....	-
36 Amador.....	-
37 Butte.....	-
38 Calaveras.....	-
39 Colusa.....	-
40 Contra Costa.....	11,974,535

	Jurisdiction	Amount
1	Jurisdiction	
2	Del Norte.....	-
3	El Dorado.....	-
4	Fresno.....	11,222,780
5	Glenn.....	-
6	Humboldt.....	-
7	Imperial.....	-
8	Inyo.....	-
9	Kern.....	9,234,511
10	Kings.....	-
11	Lake.....	-
12	Lassen.....	-
13	Los Angeles.....	175,330,647
14	Madera.....	-
15	Marin.....	-
16	Mariposa.....	-
17	Mendocino.....	-
18	Merced.....	-
19	Modoc.....	-
20	Mono.....	-
21	Monterey.....	4,520,911
22	Napa.....	-
23	Nevada.....	-
24	Orange.....	38,846,003
25	Placer.....	-
26	Plumas.....	-
27	Riverside.....	17,857,241
28	Sacramento.....	20,733,264
29	San Benito.....	-
30	San Bernardino.....	20,227,102
31	San Diego.....	43,495,932
32	San Francisco.....	19,295,303
33	San Joaquin.....	6,543,068
34	San Luis Obispo.....	-
35	San Mateo.....	12,181,079
36	Santa Barbara.....	6,764,792
37	Santa Clara.....	28,689,450
38	Santa Cruz.....	-
39	Shasta.....	-
40	Sierra.....	-

1	Jurisdiction	Amount
2	Siskiyou.....	-
3	Solano.....	6,242,661
4	Sonoma.....	6,162,466
5	Stanislaus.....	3,506,297
6	Sutter.....	-
7	Tehama.....	-
8	Trinity.....	-
9	Tulare.....	-
10	Tuolumne.....	-
11	Ventura.....	9,734,190
12	Yolo.....	-
13	Yuba.....	-

14
 15 (2) Except as otherwise specifically provided in this section,
 16 each county shall also remit to the state the amount listed below,
 17 which is based on an amount of fee, fine, and forfeiture revenue
 18 remitted to the state pursuant to Sections 27361 and 76000 of this
 19 code, Sections 1463.001, 1463.07, and 1464 of the Penal Code,
 20 and Sections 42007, 42007.1, and 42008 of the Vehicle Code
 21 during the 1994–95 fiscal year:

23	Jurisdiction	Amount
24	Alameda.....	\$ 9,912,156
25	Alpine.....	58,757
26	Amador.....	265,707
27	Butte.....	1,217,052
28	Calaveras.....	310,331
29	Colusa.....	397,468
30	Contra Costa.....	4,486,486
31	Del Norte.....	124,085
32	El Dorado.....	1,028,349
33	Fresno.....	3,695,633
34	Glenn.....	360,974
35	Humboldt.....	1,025,583
36	Imperial.....	1,144,661
37	Inyo.....	614,920
38	Kern.....	5,530,972
39	Kings.....	982,208
40	Lake.....	375,570

	Jurisdiction	Amount
1	Lassen.....	430,163
2	Los Angeles.....	71,002,129
3	Madera.....	1,042,797
4	Marin.....	2,111,712
5	Mariposa.....	135,457
6	Mendocino.....	717,075
7	Merced.....	1,733,156
8	Modoc.....	104,729
9	Mono.....	415,136
10	Monterey.....	3,330,125
11	Napa.....	719,168
12	Nevada.....	1,220,686
13	Orange.....	19,572,810
14	Placer.....	1,243,754
15	Plumas.....	193,772
16	Riverside.....	7,681,744
17	Sacramento.....	5,937,204
18	San Benito.....	302,324
19	San Bernardino.....	8,163,193
20	San Diego.....	16,166,735
21	San Francisco.....	4,046,107
22	San Joaquin.....	3,562,835
23	San Luis Obispo.....	2,036,515
24	San Mateo.....	4,831,497
25	Santa Barbara.....	3,277,610
26	Santa Clara.....	11,597,583
27	Santa Cruz.....	1,902,096
28	Shasta.....	1,044,700
29	Sierra.....	42,533
30	Siskiyou.....	615,581
31	Solano.....	2,708,758
32	Sonoma.....	2,316,999
33	Stanislaus.....	1,855,169
34	Sutter.....	678,681
35	Tehama.....	640,303
36	Trinity.....	137,087
37	Tulare.....	1,840,422
38	Tuolumne.....	361,665
39	Ventura.....	4,575,349
40		

Jurisdiction	Amount
Yolo.....	880,798
Yuba.....	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000 or fewer on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) A change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county’s portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county’s portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county’s remittance specified in paragraph (2) of this subdivision by an equal amount. This paragraph is not intended to limit judicial sentencing discretion.

(6) In the 2005–06 fiscal year, the amount that the County of Santa Clara is required to remit to the state under paragraph (2) shall be reduced as described in this paragraph, rather than as described in subdivision (b) of Section 68085.7. It is the intent of the Legislature that this paragraph have retroactive effect.

(A) For the County of Santa Clara, the remittance under this subdivision for the 2005–06 fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties’ payment obligation from thirty-one million dollars (\$31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. “Net civil assessments” as used in this paragraph means the amount of civil

1 assessments collected minus the costs of collecting those civil
2 assessments, under the guidelines of the Controller.

3 (B) The reduction under this paragraph of the amount that the
4 County of Santa Clara is required to remit to the state for the
5 2005–06 fiscal year shall not exceed two million five hundred
6 thousand dollars (\$2,500,000). If the reduction reaches two million
7 five hundred thousand dollars (\$2,500,000), the amount the county
8 is required to remit to the state under paragraph (2) of subdivision
9 (a) of Section 77201.3 in each subsequent fiscal year shall be eight
10 million four hundred sixty-one thousand two hundred ninety-three
11 dollars (\$8,461,293).

12 (C) This paragraph does not affect the reduction of the annual
13 remittance for the County of Santa Clara as provided in Section
14 68085.2.

15 (7) Notwithstanding the changes to the amounts in paragraph
16 (2) made by Section 68085.7 or any other section, the amounts in
17 paragraph (2) shall not be changed for purposes of the calculation
18 required by subdivision (a) of Section 77205.

19 (c) This section is not intended to relieve a county of the
20 responsibility to provide necessary and suitable court facilities
21 pursuant to Section 70311.

22 (d) This section is not intended to relieve a county of the
23 responsibility for justice-related expenses not included in Section
24 77003 which are otherwise required of the county by law,
25 including, but not limited to, indigent defense representation and
26 investigation, and payment of juvenile justice charges.

27 (e) County base year remittance requirements specified in
28 paragraph (2) of subdivision (b) incorporate specific reductions to
29 reflect those instances where the Department of Finance has
30 determined that a county’s remittance to both the General Fund
31 and the Trial Court Trust Fund during the 1994–95 fiscal year
32 exceeded the aggregate amount of state funding from the General
33 Fund and the Trial Court Trust Fund. The amount of the reduction
34 was determined by calculating the difference between the amount
35 the county remitted to the General Fund and the Trial Court Trust
36 Fund and the aggregate amount of state support from the General
37 Fund and the Trial Court Trust Fund allocated to the county’s trial
38 courts. In making its determination of whether a county is entitled
39 to a reduction pursuant to paragraph (2) of subdivision (b), the
40 Department of Finance subtracted from county revenues remitted

1 to the state, all moneys derived from the fee required by Section
2 42007.1 of the Vehicle Code and the parking surcharge required
3 by subdivision (c) of Section 76000 of this code.

4 (f) Notwithstanding subdivision (e), the Department of Finance
5 shall not reduce a county’s base year remittance requirement, as
6 specified in paragraph (2) of subdivision (b), if the county’s trial
7 court funding allocation was modified pursuant to the amendments
8 to the allocation formula set forth in paragraph (4) of subdivision
9 (d) of Section 77200, as amended by Chapter 2 of the Statutes of
10 1993, to provide a stable level of funding for small county courts
11 in response to reductions in the General Fund support for the trial
12 courts.

13 (g) In any fiscal year in which a county of the first class pays
14 the employer-paid retirement contribution for court employees, or
15 other employees of the county who provide a service to the court,
16 and the amounts of those payments are charged to the budget of
17 the courts, the sum the county is required to pay to the state
18 pursuant to paragraph (1) of subdivision (b) shall be increased by
19 the actual amount charged to the trial court up to twenty-three
20 million five hundred twenty-seven thousand nine hundred
21 forty-nine dollars (\$23,527,949) in that fiscal year. The county
22 and the trial court shall report to the Controller and the Department
23 of Finance the actual amount charged in that fiscal year.

24 ~~SEC. 133.~~

25 *SEC. 132.* Section 95001 of the Government Code is amended
26 to read:

27 95001. (a) The Legislature hereby finds and declares all of the
28 following:

29 (1) There is a need to provide appropriate early intervention
30 services individually designed for infants and toddlers from birth
31 to two years of age, inclusive, who have disabilities or are at risk
32 of having disabilities, to enhance their development and to
33 minimize the potential for developmental delays.

34 (2) Early intervention services for infants and toddlers with
35 disabilities or who are at risk of having disabilities represent an
36 investment of resources, in that these services reduce the ultimate
37 costs to our society, by minimizing the need for special education
38 and related services in later school years and by minimizing the
39 likelihood of institutionalization. These services also maximize
40 the ability of families to better provide for the special needs of

1 their children. Early intervention services for infants and toddlers
2 with disabilities maximize the potential of the individuals to be
3 effective in the context of daily life and activities, including the
4 potential to live independently, and exercise the full rights of
5 citizenship. The earlier intervention is started, the greater is the
6 ultimate cost-effectiveness and the higher is the educational
7 attainment and quality of life achieved by children with disabilities.

8 (3) The family is the constant in the child's life, while the service
9 system and personnel within those systems fluctuate. Because the
10 primary responsibility of an infant's or toddler's well-being rests
11 with the family, services should support and enhance the family's
12 capability to meet the special developmental needs of their infant
13 or toddler with disabilities.

14 (4) Family-to-family support strengthens families' ability to
15 fully participate in services planning and their capacity to care for
16 their infants or toddlers with disabilities.

17 (5) Meeting the complex needs of infants with disabilities and
18 their families requires active state and local coordinated,
19 collaborative, and accessible service delivery systems that are
20 flexible, culturally competent, and responsive to family-identified
21 needs. When health, developmental, educational, and social
22 programs are coordinated, they are proven to be cost effective, not
23 only for systems, but for families as well.

24 (6) Family-professional collaboration contributes to changing
25 the ways that early intervention services are provided and to
26 enhancing their effectiveness.

27 (7) Infants and toddlers with disabilities are a part of their
28 communities, and as citizens make valuable contributions to society
29 as a whole.

30 (b) Therefore, it is the intent of the Legislature that:

31 (1) Funding provided under Part C of the federal Individuals
32 with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) be
33 used to improve and enhance early intervention services as defined
34 in this title by developing innovative ways of providing family
35 focused, coordinated services, which are built upon existing
36 systems.

37 (2) The State Department of Developmental Services, the State
38 Department of Education, the State Department of Health Care
39 Services, the State Department of Mental Health, the State
40 Department of Social Services, and the State Department of

1 Alcohol and Drug Programs coordinate services to infants and
2 toddlers with disabilities and their families. These agencies need
3 to collaborate with families and communities to provide a
4 family-centered, comprehensive, multidisciplinary, interagency,
5 community-based, early intervention system for infants and
6 toddlers with disabilities.

7 (3) Families be well informed, supported, and respected as
8 capable and collaborative decisionmakers regarding services for
9 their child.

10 (4) Professionals be supported to enhance their training and
11 maintain a high level of expertise in their field, as well as
12 knowledge of what constitutes most effective early intervention
13 practices.

14 (5) Families and professionals join in collaborative partnerships
15 to develop early intervention services that meet the needs of infants
16 and toddlers with disabilities, and that those partnerships be the
17 basis for the development of services that meet the needs of the
18 culturally and linguistically diverse population of California.

19 (6) To the maximum extent possible, infants and toddlers with
20 disabilities and their families be provided services in the most
21 natural environment, and include the use of natural supports and
22 existing community resources.

23 (7) The services delivery system be responsive to the families
24 and children it serves within the context of cooperation and
25 coordination among the various agencies.

26 (8) Early intervention program quality be ensured and
27 maintained through established early intervention program and
28 personnel standards.

29 (9) The early intervention system be responsive to public input
30 and participation in the development of implementation policies
31 and procedures for early intervention services through the forum
32 of an interagency coordinating council established pursuant to
33 federal regulations under Part C of the federal Individuals with
34 Disabilities Education Act.

35 (c) It is not the intent of the Legislature to require the State
36 Department of Education to implement this title unless adequate
37 reimbursement, as specified and agreed to by the department, is
38 provided to the department from federal funds from Part C of the
39 federal Individuals with Disabilities Education Act.

1 ~~SEC. 134.~~

2 *SEC. 133.* Section 95003 of the Government Code, as amended
3 by Section 106 of Chapter 56 of the Statutes of 2007, is amended
4 to read:

5 95003. (a) The state’s participation in Part C of the federal
6 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431
7 et seq.) shall be contingent on the receipt of federal funds to cover
8 the costs of complying with the federal statutes and regulations
9 that impose new requirements on the state. The State Department
10 of Developmental Services and the State Department of Education
11 annually shall report to the Department of Finance during
12 preparation of the Governor’s Budget, and the May Revision, the
13 budget year costs and federal funds projected to be available.

14 (b) If the amount of funding provided by the federal government
15 pursuant to Part C of the federal Individuals with Disabilities
16 Education Act for the 1993–94 fiscal year, or any fiscal year
17 thereafter, is not sufficient to fund the full increased costs of
18 participation in this federal program by the local educational
19 agencies, as required pursuant to this title, for infants and toddlers
20 from birth to two years of age, inclusive, identified pursuant to
21 Section 95014, and that lack of federal funding would require an
22 increased contribution from the General Fund or a contribution
23 from a local educational agency in order to fund those required
24 and supplemental costs, the state shall terminate its participation
25 in the program. Termination of the program shall occur on July 1
26 if local educational agencies have been notified of the termination
27 prior to March 10 of that calendar year. If this notification is
28 provided after March 10 of a calendar year, then termination shall
29 not occur earlier than July 1 of the subsequent calendar year. The
30 voluntary contribution by a state or local agency of funding for
31 any of the programs or services required pursuant to this title shall
32 not constitute grounds for terminating the state’s participation in
33 that federal program. It is the intent of the Legislature that if the
34 program terminates, the termination shall be carried out in an
35 orderly manner with notification of parents and certificated
36 personnel.

37 (c) This title shall remain in effect only until the state terminates
38 its participation in Part C of the federal Individuals with Disabilities
39 Education Act for individuals from birth to two years of age,
40 inclusive, and notifies the Secretary of the Senate of the

1 termination, and as of that later date is repealed. As the lead agency,
 2 the State Department of Developmental Services, upon notification
 3 by the Department of Finance or the State Department of Education
 4 as to the insufficiency of federal funds and the termination of this
 5 program, shall be responsible for the payment of services pursuant
 6 to this title when no other agency or department is required to
 7 make these payments.

8 ~~SEC. 135.~~

9 *SEC. 134.* Section 95020 of the Government Code is amended
 10 to read:

11 95020. (a) An eligible infant or toddler shall have an
 12 individualized family service plan. The individualized family
 13 service plan shall be used in place of an individualized education
 14 program required pursuant to Sections 4646 and 4646.5 of the
 15 Welfare and Institutions Code, the individualized program plan
 16 required pursuant to Section 56340 of the Education Code, or any
 17 other applicable service plan.

18 (b) For an infant or toddler who has been evaluated for the first
 19 time, a meeting to share the results of the evaluation, to determine
 20 eligibility and, for children who are eligible, to develop the initial
 21 individualized family service plan shall be conducted within 45
 22 calendar days of receipt of the written referral. Evaluation results
 23 and determination of eligibility may be shared in a meeting with
 24 the family prior to the individualized family service plan. Written
 25 parent consent to evaluate and assess shall be obtained within the
 26 45-day timeline. A regional center, local educational agency, or
 27 the designee of one of those entities shall initiate and conduct this
 28 meeting. Families shall be afforded the opportunity to participate
 29 in all decisions regarding eligibility and services.

30 (c) Parents shall be fully informed of their rights, including the
 31 right to invite another person, including a family member or an
 32 advocate or peer parent, or any or all of them, to accompany them
 33 to any or all individualized family service plan meetings. With
 34 parental consent, a referral shall be made to the local family
 35 resource center or network.

36 (d) The individualized family service plan shall be in writing
 37 and shall address all of the following:

38 (1) A statement of the infant’s or toddler’s present levels of
 39 physical development including vision, hearing, and health status,

1 cognitive development, communication development, social and
2 emotional development, and adaptive developments.

3 (2) With the concurrence of the family, a statement of the
4 family's concerns, priorities, and resources related to meeting the
5 special developmental needs of the eligible infant or toddler.

6 (3) A statement of the major outcomes expected to be achieved
7 for the infant or toddler and family where services for the family
8 are related to meeting the special developmental needs of the
9 eligible infant or toddler.

10 (4) The criteria, procedures, and timelines used to determine
11 the degree to which progress toward achieving the outcomes is
12 being made and whether modifications or revisions are necessary.

13 (5) A statement of the specific early intervention services
14 necessary to meet the unique needs of the infant or toddler as
15 identified in paragraph (3), including, but not limited to, the
16 frequency, intensity, location, duration, and method of delivering
17 the services, and ways of providing services in natural
18 environments.

19 (6) A statement of the agency responsible for providing the
20 identified services.

21 (7) The name of the service coordinator who shall be responsible
22 for facilitating implementation of the plan and coordinating with
23 other agencies and persons.

24 (8) The steps to be taken to ensure transition of the infant or
25 toddler upon reaching three years of age to other appropriate
26 services. These may include, as appropriate, special education or
27 other services offered in natural environments.

28 (9) The projected dates for the initiation of services in paragraph
29 (5) and the anticipated duration of those services.

30 (e) Each service identified on the individualized family service
31 plan shall be designated as one of three types:

32 (1) An early intervention service, as defined in subsection (4)
33 of Section 1432 of Title 20 of the United States Code, and
34 applicable regulations, that is provided or purchased through the
35 regional center, local educational agency, or other participating
36 agency. The State Department of Health Care Services, State
37 Department of Social Services, State Department of Mental Health,
38 and State Department of Alcohol and Drug Programs shall provide
39 services in accordance with state and federal law and applicable
40 regulations, and up to the level of funding as appropriated by the

1 Legislature. Early intervention services identified on an
2 individualized family service plan that exceed the funding,
3 statutory, and regulatory requirements of these departments shall
4 be provided or purchased by regional centers or local educational
5 agencies under subdivisions (b) and (c) of Section 95014. The
6 State Department of Health Care Services, State Department of
7 Social Services, State Department of Mental Health, and State
8 Department of Alcohol and Drug Programs shall not be required
9 to provide early intervention services over their existing funding,
10 statutory, and regulatory requirements.

11 (2) Another service, other than those specified in paragraph (1),
12 which the eligible infant or toddler or his or her family may receive
13 from other state programs, subject to the eligibility standards of
14 those programs.

15 (3) A referral to a nonrequired service that may be provided to
16 an eligible infant or toddler or his or her family. Nonrequired
17 services are those services that are not defined as early intervention
18 services or do not relate to meeting the special developmental
19 needs of an eligible infant or toddler related to the disability, but
20 which may be helpful to the family. The granting or denial of
21 nonrequired services by a public or private agency is not subject
22 to appeal under this title.

23 (f) An annual review, and other periodic reviews, of the
24 individualized family service plan for an infant or toddler and the
25 infant's or toddler's family shall be conducted to determine the
26 degree of progress that is being made in achieving the outcomes
27 specified in the plan and whether modification or revision of the
28 outcomes or services is necessary. The frequency, participants,
29 purpose, and required processes for annual and periodic reviews
30 shall be consistent with the statutes and regulations under Part C
31 of the federal Individuals with Disabilities Education Act (20
32 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in
33 regulations adopted pursuant to Section 95028.

34 ~~SEC. 136.~~

35 *SEC. 135.* Section 1180.1 of the Health and Safety Code is
36 amended to read:

37 1180.1. For purposes of this division, the following definitions
38 apply:

39 (a) "Behavioral restraint" means "mechanical restraint" or
40 "physical restraint" as defined in this section, used as an

1 intervention when a person presents an immediate danger to self
2 or to others. It does not include restraints used for medical
3 purposes, including, but not limited to, securing an intravenous
4 needle or immobilizing a person for a surgical procedure, or
5 postural restraints, or devices used to prevent injury or to improve
6 a person’s mobility and independent functioning rather than to
7 restrict movement.

8 (b) “Containment” means a brief physical restraint of a person
9 for the purpose of effectively gaining quick control of a person
10 who is aggressive or agitated or who is a danger to self or others.

11 (c) “Mechanical restraint” means the use of a mechanical device,
12 material, or equipment attached or adjacent to the person’s body
13 that he or she cannot easily remove and that restricts the freedom
14 of movement of all or part of a person’s body or restricts normal
15 access to the person’s body, and that is used as a behavioral
16 restraint.

17 (d) “Physical restraint” means the use of a manual hold to restrict
18 freedom of movement of all or part of a person’s body, or to restrict
19 normal access to the person’s body, and that is used as a behavioral
20 restraint. “Physical restraint” is staff-to-person physical contact in
21 which the person unwillingly participates. “Physical restraint”
22 does not include briefly holding a person without undue force in
23 order to calm or comfort, or physical contact intended to gently
24 assist a person in performing tasks or to guide or assist a person
25 from one area to another.

26 (e) “Seclusion” means the involuntary confinement of a person
27 alone in a room or an area from which the person is physically
28 prevented from leaving. “Seclusion” does not include a “timeout,”
29 as defined in regulations relating to facilities operated by the State
30 Department of Developmental Services.

31 (f) “Secretary” means the Secretary of California Health and
32 Human Services.

33 (g) “Serious injury” means significant impairment of the
34 physical condition as determined by qualified medical personnel,
35 and includes, but is not limited to, burns, lacerations, bone
36 fractures, substantial hematoma, or injuries to internal organs.

37 ~~SEC. 137.~~

38 *SEC. 136.* Section 1250.8 of the Health and Safety Code is
39 amended to read:

1 1250.8. (a) Notwithstanding subdivision (a) of Section 127170,
2 the department, upon application of a general acute care hospital
3 that meets all the criteria of subdivision (b), and other applicable
4 requirements of licensure, shall issue a single consolidated license
5 to a general acute care hospital that includes more than one physical
6 plant maintained and operated on separate premises or that has
7 multiple licenses for a single health facility on the same premises.
8 A single consolidated license shall not be issued where the separate
9 freestanding physical plant is a skilled nursing facility or an
10 intermediate care facility, whether or not the location of the skilled
11 nursing facility or intermediate care facility is contiguous to the
12 general acute care hospital unless the hospital is exempt from the
13 requirements of subdivision (b) of Section 1254, or the facility is
14 part of the physical structure licensed to provide acute care.

15 (b) The issuance of a single consolidated license shall be based
16 on the following criteria:

17 (1) There is a single governing body for all the facilities
18 maintained and operated by the licensee.

19 (2) There is a single administration for all the facilities
20 maintained and operated by the licensee.

21 (3) There is a single medical staff for all the facilities maintained
22 and operated by the licensee, with a single set of bylaws, rules,
23 and regulations, which prescribe a single committee structure.

24 (4) Except as provided otherwise in this paragraph, the physical
25 plants maintained and operated by the licensee which are to be
26 covered by the single consolidated license are located not more
27 than 15 miles apart. If an applicant provides evidence satisfactory
28 to the department that it can comply with all requirements of
29 licensure and provide quality care and adequate administrative and
30 professional supervision, the director may issue a single
31 consolidated license to a general acute care hospital that operates
32 two or more physical plants located more than 15 miles apart under
33 any of the following circumstances:

34 (A) One or more of the physical plants is located in a rural area,
35 as defined by regulations of the director.

36 (B) One or more of the physical plants provides only outpatient
37 services, as defined by the department.

38 (C) If Section 14105.986 of the Welfare and Institutions Code
39 is implemented and the applicant meets all of the following criteria:

40 (i) The applicant is a nonprofit corporation.

- 1 (ii) The applicant is a children’s hospital listed in Section 10727
2 of the Welfare and Institutions Code.
- 3 (iii) The applicant is affiliated with a major university medical
4 school and located adjacent thereto.
- 5 (iv) The applicant operates a regional tertiary care facility.
- 6 (v) One of the physical plants is located in a county that has a
7 consolidated and county government structure.
- 8 (vi) One of the physical plants is located in a county having a
9 population between 1,000,000 and 2,000,000.
- 10 (vii) The applicant is located in a city with a population between
11 50,000 and 100,000.
- 12 (c) In issuing the single consolidated license, the state
13 department shall specify the location of each supplemental service
14 and the location of the number and category of beds provided by
15 the licensee. The single consolidated license shall be renewed
16 annually.
- 17 (d) To the extent required by Chapter 1 (commencing with
18 Section 127125) of Part 2 of Division 107, a general acute care
19 hospital ~~which~~ *that* has been issued a single consolidated license:
- 20 (1) Shall not transfer from one facility to another a special
21 service described in Section 1255 without first obtaining a
22 certificate of need.
- 23 (2) Shall not transfer, in whole or in part, from one facility to
24 another, a supplemental service, as defined in regulations of the
25 director pursuant to this chapter, without first obtaining a certificate
26 of need, unless the licensee, 30 days prior to the relocation, notifies
27 the Office of Statewide Health Planning and Development, the
28 applicable health systems agency, and the state department of the
29 licensee’s intent to relocate the supplemental service, and includes
30 with this notice a cost estimate, certified by a person qualified by
31 experience or training to render the estimates, which estimates that
32 the cost of the transfer will not exceed the capital expenditure
33 threshold established by the Office of Statewide Health Planning
34 and Development pursuant to Section 127170.
- 35 (3) Shall not transfer beds from one facility to another facility,
36 without first obtaining a certificate of need unless, 30 days prior
37 to the relocation, the licensee notifies the Office of Statewide
38 Health Planning and Development, the applicable health systems
39 agency, and the state department of the licensee’s intent to relocate

1 health facility beds, and includes with this notice both of the
2 following:

3 (A) A cost estimate, certified by a person qualified by experience
4 or training to render the estimates, which estimates that the cost
5 of the relocation will not exceed the capital expenditure threshold
6 established by the Office of Statewide Health Planning and
7 Development pursuant to Section 127170.

8 (B) The identification of the number, classification, and location
9 of the health facility beds in the transferor facility and the proposed
10 number, classification, and location of the health facility beds in
11 the transferee facility.

12 Except as otherwise permitted in Chapter 1 (commencing with
13 Section 127125) of Part 2 of Division 107, or as authorized in an
14 approved certificate of need pursuant to that chapter, health facility
15 beds transferred pursuant to this section shall be used in the
16 transferee facility in the same bed classification as defined in
17 Section 1250.1, as the beds were classified in the transferor facility.

18 Health facility beds transferred pursuant to this section shall not
19 be transferred back to the transferor facility for two years from the
20 date of the transfer, regardless of cost, without first obtaining a
21 certificate of need pursuant to Chapter 1 (commencing with Section
22 127125) of Part 2 of Division 107.

23 (e) Transfers pursuant to subdivision (d) shall satisfy all
24 applicable requirements of licensure and shall be subject to the
25 written approval, if required, of the state department. The state
26 department may adopt regulations that are necessary to implement
27 this section. These regulations may include a requirement that each
28 facility of a health facility subject to a single consolidated license
29 have an onsite full-time or part-time administrator.

30 (f) As used in this section, “facility” means a physical plant
31 operated or maintained by a health facility subject to a single,
32 consolidated license issued pursuant to this section.

33 (g) For purposes of selective provider contracts negotiated under
34 the Medi-Cal program, the treatment of a health facility with a
35 single consolidated license issued pursuant to this section shall be
36 subject to negotiation between the health facility and the California
37 Medical Assistance Commission. A general acute care hospital
38 that is issued a single consolidated license pursuant to this section
39 may, at its option, be enrolled in the Medi-Cal program as a single
40 business address or as separate business addresses for one or more

1 of the facilities subject to the single consolidated license.
2 Irrespective of whether the general acute care hospital is enrolled
3 at one or more business addresses, the department may require the
4 hospital to file separate cost reports for each facility pursuant to
5 Section 14170 of the Welfare and Institutions Code.

6 (h) For purposes of the Annual Report of Hospitals required by
7 regulations adopted by the state department pursuant to this part,
8 the state department and the Office of Statewide Health Planning
9 and Development may require reporting of bed and service
10 utilization data separately by each facility of a general acute care
11 hospital issued a single consolidated license pursuant to this
12 section.

13 (i) The amendments made to this section during the 1985–86
14 Regular Session of the Legislature pertaining to the issuance of a
15 single consolidated license to a general acute care hospital in the
16 case where the separate physical plant is a skilled nursing facility
17 or intermediate care facility shall not apply to the following
18 facilities:

19 (1) A facility that obtained a certificate of need after August 1,
20 1984, and prior to February 14, 1985, as described in this
21 subdivision. The certificate of need shall be for the construction
22 of a skilled nursing facility or intermediate care facility that is the
23 same facility for which the hospital applies for a single consolidated
24 license, pursuant to subdivision (a).

25 (2) A facility for which a single consolidated license has been
26 issued pursuant to subdivision (a), as described in this subdivision,
27 prior to the effective date of the amendments made to this section
28 during the 1985–86 Regular Session of the Legislature.

29 A facility ~~which~~ *that* has been issued a single consolidated
30 license pursuant to subdivision (a), as described in this subdivision,
31 shall be granted renewal licenses based upon the same criteria used
32 for the initial consolidated license.

33 (j) If the state department issues a single consolidated license
34 pursuant to this section, the state department may take any action
35 authorized by this chapter, including, but not limited to, any action
36 specified in Article 5 (commencing with Section 1294), with
37 respect to a facility, or a service provided in a facility, that is
38 included in the consolidated license.

39 (k) The eligibility for participation in the Medi-Cal program
40 (Chapter 7 (commencing with Section 14000) of Part 3 of Division

1 9 of the Welfare and Institutions Code) of a facility that is included
2 in a consolidated license issued pursuant to this section, provides
3 outpatient services, and is located more than 15 miles from the
4 health facility issued the consolidated license shall be subject to a
5 determination of eligibility by the state department. This
6 subdivision shall not apply to a facility that is located in a rural
7 area and is included in a consolidated license issued pursuant to
8 subparagraphs (A), (B), and (C) of paragraph (4) of subdivision
9 (b). Regardless of whether a facility has received or not received
10 a determination of eligibility pursuant to this subdivision, this
11 subdivision shall not affect the ability of a licensed professional,
12 providing services covered by the Medi-Cal program to a person
13 eligible for Medi-Cal in a facility subject to a determination of
14 eligibility pursuant to this subdivision, to bill the Medi-Cal program
15 for those services provided in accordance with applicable
16 regulations.

17 (l) Notwithstanding any other provision of law, the director may
18 issue a single consolidated license for a general acute care hospital
19 to Children's Hospital Oakland and San Ramon Regional Medical
20 Center.

21 (m) Notwithstanding any other provision of law, the director
22 may issue a single consolidated license for a general acute care
23 hospital to Children's Hospital Oakland and the John Muir Medical
24 Center, Concord Campus.

25 (n) (1) To the extent permitted by federal law, payments made
26 to Children's Hospital Oakland pursuant to Section 14166.11 of
27 the Welfare and Institutions Code shall be adjusted as follows:

28 (A) The number of Medi-Cal payment days and net revenues
29 calculated for the John Muir Medical Center, Concord Campus
30 under the consolidated license shall not be used for eligibility
31 purposes for the private hospital disproportionate share hospital
32 replacement funds for Children's Hospital Oakland.

33 (B) The number of Medi-Cal payment days calculated for
34 hospital beds located at John Muir Medical Center, Concord
35 Campus that are included in the consolidated license beginning in
36 the 2007–08 fiscal year shall only be used for purposes of
37 calculating disproportionate share hospital payments authorized
38 under Section 14166.11 of the Welfare and Institutions Code at
39 Children's Hospital Oakland to the extent that the inclusion of
40 those days does not exceed the total Medi-Cal payment days used

1 to calculate Children’s Hospital Oakland payments for the 2006–07
2 fiscal year disproportionate share replacement.

3 (2) This subdivision shall become inoperative in the event that
4 the two facilities covered under the consolidated license described
5 in subdivision (a) are located within a 15-mile radius of each other.

6 ~~SEC. 138.~~

7 *SEC. 137.* Section 1348.8 of the Health and Safety Code is
8 amended to read:

9 1348.8. (a) A health care service plan that provides, operates,
10 or contracts for, telephone medical advice services to its enrollees
11 and subscribers shall do all of the following:

12 (1) Ensure that the in-state or out-of-state telephone medical
13 advice service is registered pursuant to Chapter 15 (commencing
14 with Section 4999) of Division 2 of the Business and Professions
15 Code.

16 (2) Ensure that the staff providing telephone medical advice
17 services for the in-state or out-of-state telephone medical advice
18 service are licensed as follows:

19 (A) For full service health care service plans, the staff hold a
20 valid California license as a registered nurse or a valid license in
21 the state within which they provide telephone medical advice
22 services as a physician and surgeon or physician assistant, and are
23 operating in compliance with the laws governing their respective
24 scopes of practice.

25 (B) (i) For specialized health care service plans providing,
26 operating, or contracting with a telephone medical advice service
27 in California, the staff shall be appropriately licensed, registered,
28 or certified as a dentist pursuant to Chapter 4 (commencing with
29 Section 1600) of Division 2 of the Business and Professions Code,
30 as a dental hygienist pursuant to Article 7 (commencing with
31 Section 1740) of Chapter 4 of Division 2 of the Business and
32 Professions Code, as a physician and surgeon pursuant to Chapter
33 5 (commencing with Section 2000) of Division 2 of the Business
34 and Professions Code or the Osteopathic Initiative Act, as a
35 registered nurse pursuant to Chapter 6 (commencing with Section
36 2700) of Division 2 of the Business and Professions Code, as a
37 psychologist pursuant to Chapter 6.6 (commencing with Section
38 2900) of Division 2 of the Business and Professions Code, as an
39 optometrist pursuant to Chapter 7 (commencing with Section 3000)
40 of Division 2 of the Business and Professions Code, as a marriage

1 and family therapist pursuant to Chapter 13 (commencing with
2 Section 4980) of Division 2 of the Business and Professions Code,
3 as a licensed clinical social worker pursuant to Chapter 14
4 (commencing with Section 4991) of Division 2 of the Business
5 and Professions Code, or as a chiropractor pursuant to the
6 Chiropractic Initiative Act, and operating in compliance with the
7 laws governing their respective scopes of practice.

8 (ii) For specialized health care service plans providing,
9 operating, or contracting with an out-of-state telephone medical
10 advice service, the staff shall be health care professionals, as
11 identified in clause (i), who are licensed, registered, or certified
12 in the state within which they are providing the telephone medical
13 advice services and are operating in compliance with the laws
14 governing their respective scopes of practice. All registered nurses
15 providing telephone medical advice services to both in-state and
16 out-of-state business entities registered pursuant to this chapter
17 shall be licensed pursuant to Chapter 6 (commencing with Section
18 2700) of Division 2 of the Business and Professions Code.

19 (3) Ensure that every full service health care service plan
20 provides for a physician and surgeon who is available on an on-call
21 basis at all times the service is advertised to be available to
22 enrollees and subscribers.

23 (4) Ensure that staff members handling enrollee or subscriber
24 calls, who are not licensed, certified, or registered as required by
25 paragraph (2), do not provide telephone medical advice. Those
26 staff members may ask questions on behalf of a staff member who
27 is licensed, certified, or registered as required by paragraph (2),
28 in order to help ascertain the condition of an enrollee or subscriber
29 so that the enrollee or subscriber can be referred to licensed staff.
30 However, under no circumstances shall those staff members use
31 the answers to those questions in an attempt to assess, evaluate,
32 advise, or make any decision regarding the condition of an enrollee
33 or subscriber or determine when an enrollee or subscriber needs
34 to be seen by a licensed medical professional.

35 (5) Ensure that no staff member uses a title or designation when
36 speaking to an enrollee or subscriber that may cause a reasonable
37 person to believe that the staff member is a licensed, certified, or
38 registered professional described in Section 4999.2 of the Business
39 and Professions Code unless the staff member is a licensed,
40 certified, or registered professional.

1 (6) Ensure that the in-state or out-of-state telephone medical
2 advice service designates an agent for service of process in
3 California and files this designation with the director.

4 (7) Requires that the in-state or out-of-state telephone medical
5 advice service makes and maintains records for a period of five
6 years after the telephone medical advice services are provided,
7 including, but not limited to, oral or written transcripts of all
8 medical advice conversations with the health care service plan's
9 enrollees or subscribers in California and copies of all complaints.
10 If the records of telephone medical advice services are kept out of
11 state, the health care service plan shall, upon the request of the
12 director, provide the records to the director within 10 days of the
13 request.

14 (8) Ensure that the telephone medical advice services are
15 provided consistent with good professional practice.

16 (b) The director shall forward to the Department of Consumer
17 Affairs, within 30 days of the end of each calendar quarter, data
18 regarding complaints filed with the department concerning
19 telephone medical advice services.

20 (c) For purposes of this section, "telephone medical advice"
21 means a telephonic communication between a patient and a health
22 care professional in which the health care professional's primary
23 function is to provide to the patient a telephonic response to the
24 patient's questions regarding his or her or a family member's
25 medical care or treatment. "Telephone medical advice" includes
26 assessment, evaluation, or advice provided to patients or their
27 family members.

28 ~~SEC. 139.~~

29 *SEC. 138.* Section 1357.03 of the Health and Safety Code is
30 amended to read:

31 1357.03. (a) Upon the effective date of this article, a plan shall
32 fairly and affirmatively offer, market, and sell all of the plan's
33 health care service plan contracts that are sold to small employers
34 or to associations that include small employers to all small
35 employers in each service area in which the plan provides or
36 arranges for the provision of health care services. A plan
37 contracting to participate in the voluntary purchasing pool for small
38 employers provided for under Article 4 (commencing with Section
39 10730) of Chapter 8 of Part 2 of Division 2 of the Insurance Code
40 shall be deemed in compliance with this requirement for a contract

1 offered through the voluntary purchasing pool established under
2 Article 4 (commencing with Section 10730) of Chapter 8 of Part
3 2 of Division 2 of the Insurance Code in those geographic regions
4 in which plans participate in the pool, if the contract is offered
5 exclusively through the pool. Each plan shall make available to
6 each small employer all small employer health care service plan
7 contracts that the plan offers and sells to small employers or to
8 associations that include small employers in this state. No plan or
9 solicitor shall induce or otherwise encourage a small employer to
10 separate or otherwise exclude an eligible employee from a health
11 care service plan contract that is provided in connection with the
12 employee's employment or membership in a guaranteed
13 association.

14 (b) Every plan shall file with the director the reasonable
15 employee participation requirements and employer contribution
16 requirements that will be applied in offering its plan contracts.
17 Participation requirements shall be applied uniformly among all
18 small employer groups, except that a plan may vary application
19 of minimum employee participation requirements by the size of
20 the small employer group and whether the employer contributes
21 100 percent of the eligible employee's premium. Employer
22 contribution requirements shall not vary by employer size. A health
23 care service plan shall not establish a participation requirement
24 that (1) requires a person who meets the definition of a dependent
25 in subdivision (a) of Section 1357 to enroll as a dependent if he
26 or she is otherwise eligible for coverage and wishes to enroll as
27 an eligible employee and (2) allows a plan to reject an otherwise
28 eligible small employer because of the number of persons that
29 waive coverage due to coverage through another employer.
30 Members of an association eligible for health coverage under
31 subdivision (o) of Section 1357, but not electing any health
32 coverage through the association, shall not be counted as eligible
33 employees for purposes of determining whether the guaranteed
34 association meets a plan's reasonable participation standards.

35 (c) The plan shall not reject an application from a small
36 employer for a health care service plan contract if all of the
37 following are met:

38 (1) The small employer, as defined by paragraph (1) of
39 subdivision (l) of Section 1357, offers health benefits to 100
40 percent of its eligible employees, as defined by paragraph (1) of

1 subdivision (b) of Section 1357. Employees who waive coverage
2 on the grounds that they have other group coverage shall not be
3 counted as eligible employees.

4 (2) The small employer agrees to make the required premium
5 payments.

6 (3) The small employer agrees to inform the small employers'
7 employees of the availability of coverage and the provision that
8 those not electing coverage must wait one year to obtain coverage
9 through the group if they later decide they would like to have
10 coverage.

11 (4) The employees and their dependents who are to be covered
12 by the plan contract work or reside in the service area in which
13 the plan provides or otherwise arranges for the provision of health
14 care services.

15 (d) No plan or solicitor shall, directly or indirectly, engage in
16 the following activities:

17 (1) Encourage or direct small employers to refrain from filing
18 an application for coverage with a plan because of the health status,
19 claims experience, industry, occupation of the small employer, or
20 geographic location provided that it is within the plan's approved
21 service area.

22 (2) Encourage or direct small employers to seek coverage from
23 another plan or the voluntary purchasing pool established under
24 Article 4 (commencing with Section 10730) of Chapter 8 of Part
25 2 of Division 2 of the Insurance Code because of the health status,
26 claims experience, industry, occupation of the small employer, or
27 geographic location provided that it is within the plan's approved
28 service area.

29 (e) A plan shall not, directly or indirectly, enter into any contract,
30 agreement, or arrangement with a solicitor that provides for or
31 results in the compensation paid to a solicitor for the sale of a
32 health care service plan contract to be varied because of the health
33 status, claims experience, industry, occupation, or geographic
34 location of the small employer. This subdivision does not apply
35 to a compensation arrangement that provides compensation to a
36 solicitor on the basis of percentage of premium, provided that the
37 percentage shall not vary because of the health status, claims
38 experience, industry, occupation, or geographic area of the small
39 employer.

1 (f) A policy or contract that covers two or more employees shall
2 not establish rules for eligibility, including continued eligibility,
3 of an individual, or dependent of an individual, to enroll under the
4 terms of the plan based on any of the following health status-related
5 factors:

- 6 (1) Health status.
- 7 (2) Medical condition, including physical and mental illnesses.
- 8 (3) Claims experience.
- 9 (4) Receipt of health care.
- 10 (5) Medical history.
- 11 (6) Genetic information.
- 12 (7) Evidence of insurability, including conditions arising out of
13 acts of domestic violence.
- 14 (8) Disability.

15 (g) A plan shall comply with the requirements of Section 1374.3.
16 ~~SEC. 140.~~

17 *SEC. 139.* Section 1367.07 of the Health and Safety Code is
18 amended to read:

19 1367.07. Within one year after a health care service plan's
20 assessment pursuant to subdivision (b) of Section 1367.04, the
21 health care service plan shall report to the department, in a format
22 specified by the department, regarding internal policies and
23 procedures related to cultural appropriateness in each of the
24 following contexts:

25 (a) Collection of data regarding the enrollee population pursuant
26 to the health care service plan's assessment conducted in
27 accordance with subdivision (b) of Section 1367.04.

28 (b) Education of health care service plan staff who have routine
29 contact with enrollees regarding the diverse needs of the enrollee
30 population.

31 (c) Recruitment and retention efforts that encourage workforce
32 diversity.

33 (d) Evaluation of the health care service plan's programs and
34 services with respect to the plan's enrollee population, using
35 processes such as an analysis of complaints and satisfaction survey
36 results.

37 (e) The periodic provision of information regarding the ethnic
38 diversity of the plan's enrollee population and any related strategies
39 to plan providers. Plans may use existing means of communication.

1 (f) The periodic provision of educational information to plan
2 enrollees on the plan's services and programs. Plans may use
3 existing means of communication.

4 ~~SEC. 141.~~

5 *SEC. 140.* Section 1417.2 of the Health and Safety Code is
6 amended to read:

7 1417.2. (a) Notwithstanding Section 1428, moneys collected
8 as a result of state and federal civil penalties imposed under this
9 chapter or federal law shall be deposited into accounts that are
10 hereby established in the Special Deposit Fund created pursuant
11 to Section 16370 of the Government Code. These accounts are
12 titled the State Health Facilities Citation Penalties Account, into
13 which moneys derived from civil penalties for violations of state
14 law shall be deposited, and the Federal Health Facilities Citation
15 Penalties Account, into which moneys derived from civil penalties
16 for violations of federal law shall be deposited. Moneys from these
17 accounts shall be used, notwithstanding Section 16370 of the
18 Government Code, upon appropriation by the Legislature, in
19 accordance with state and federal law for the protection of health
20 or property of residents of long-term health care facilities,
21 including, but not limited to, the following:

22 (1) Relocation expenses incurred by the department, in the event
23 of a facility closure.

24 (2) Maintenance of facility operation pending correction of
25 deficiencies or closure, such as temporary management or
26 receivership, in the event that the revenues of the facility are
27 insufficient.

28 (3) Reimbursing residents for personal funds lost. In the event
29 that the loss is a result of the actions of a long-term health care
30 facility or its employees, the revenues of the facility shall first be
31 used.

32 (4) The costs associated with informational meetings required
33 under Section 1327.2.

34 (b) Notwithstanding subdivision (a), the balance in the State
35 Health Facilities Citation Penalties Account shall not, at any time,
36 exceed ten million dollars (\$10,000,000).

37 (c) Moneys from the Federal Health Facilities Citation Penalties
38 Account, in the amount not to exceed one hundred thirty thousand
39 dollars (\$130,000), may also be used, notwithstanding Section
40 16370 of the Government Code, upon appropriation by the

1 Legislature, in accordance with state and federal law for the
2 improvement of quality of care and quality of life for long-term
3 health care facilities residents pursuant to Section 1417.3.

4 (d) The department shall post on its Internet Web site, and shall
5 update on a quarterly basis, all of the following regarding the funds
6 in the State Health Facilities Citation Penalties Account and the
7 Federal Health Facilities Citation Penalties Account:

8 (1) The specific sources of funds deposited into the account.

9 (2) The amount of funds in the account that have not been
10 allocated.

11 (3) A detailed description of how funds in the account have
12 been allocated and expended, including, but not limited to, the
13 names of persons or entities that received the funds, the amount
14 of salaries paid to temporary managers, and a description of
15 equipment purchased with the funds. However, the description
16 shall not include the names of residents.

17 ~~SEC. 142.~~

18 *SEC. 141.* Section 1538.5 of the Health and Safety Code is
19 amended to read:

20 1538.5. (a) (1) Not less than 30 days prior to the anniversary
21 of the effective date of a residential community care facility license,
22 except licensed foster family homes, the department may transmit
23 a copy to the board members of the licensed facility, parents, legal
24 guardians, conservators, clients' rights advocates, or placement
25 agencies, as designated in each resident's placement agreement,
26 of all inspection reports given to the facility by the department
27 during the past year as a result of a substantiated complaint
28 regarding a violation of this chapter relating to resident abuse and
29 neglect, food, sanitation, incidental medical care, and residential
30 supervision. During that one-year period the copy of the notices
31 transmitted and the proof of the transmittal shall be open for public
32 inspection.

33 (2) The department may transmit copies of the inspection reports
34 referred to in paragraph (1) concerning group homes, as defined
35 by regulations of the department, to the county in which a group
36 home facility is located, if requested by that county.

37 (3) A group home facility shall maintain, at the facility, a copy
38 of all licensing reports for the past three years that would be
39 accessible to the public through the department, for inspection by

1 placement officials, current and prospective facility clients, and
2 these clients' family members who visit the facility.

3 (b) The facility operator, at the expense of the facility, shall
4 transmit a copy of all substantiated complaints, by certified mail,
5 to those persons described pursuant to paragraph (1) of subdivision
6 (a) in the following cases:

7 (1) In the case of a substantiated complaint relating to resident
8 physical or sexual abuse, the facility shall have three days from
9 the date the facility receives the licensing report from the state
10 department to comply.

11 (2) In any case in which a facility has received three or more
12 substantiated complaints relating to the same violation during the
13 past 12 months, the facility shall have five days from the date the
14 facility receives the licensing report to comply.

15 (c) A residential facility shall retain a copy of the notices
16 transmitted pursuant to subdivision (b) and proof of their
17 transmittal by certified mail for a period of one year after their
18 transmittal.

19 (d) If a residential facility to which this section applies fails to
20 comply with this section, as determined by the department, the
21 department shall initiate civil penalty action against the facility in
22 accordance with this article and the related rules and regulations.

23 (e) Not less than 30 days prior to the anniversary of the effective
24 date of the license of any group home facility, as defined by
25 regulations of the department, at the request of the county in which
26 the group home facility is located, a group home facility shall
27 transmit to the county a copy of all incident reports prepared by
28 the group home facility and transmitted to a placement agency, as
29 described in subdivision (f) of Section 1536.1, in a county other
30 than the county in which the group home facility is located that
31 involved a response by local law enforcement or emergency
32 services personnel. The county shall designate an official for the
33 receipt of the incident reports and shall notify the group home of
34 the designation. Prior to transmitting copies of incident reports to
35 the county, the group home facility shall redact the name of any
36 child referenced in the incident reports, and other identifying
37 information regarding any child referenced in the reports, and the
38 identity and location of the placement agency of any child
39 referenced in the reports. The county may review the incident
40 reports to ensure that the group home facilities have taken

1 appropriate action to ensure the health and safety of the residents
2 of the facility.

3 (f) The department shall notify the residential community care
4 facility of its obligation when it is required to comply with this
5 section.

6 ~~SEC. 143.~~

7 *SEC. 142.* Section 1568.09 of the Health and Safety Code is
8 amended to read:

9 1568.09. It is the intent of the Legislature in enacting this
10 section to require the electronic fingerprint images of those
11 individuals whose contact with residents of residential care
12 facilities for persons with a chronic, life-threatening illness may
13 pose a risk to the residents' health and safety.

14 It is the intent of the Legislature, in enacting this section, to
15 require the electronic fingerprint images of those individuals whose
16 contact with community care clients may pose a risk to the clients'
17 health and safety. An individual shall be required to obtain either
18 a criminal record clearance or a criminal record exemption from
19 the State Department of Social Services before his or her initial
20 presence in a residential care facility for persons with chronic,
21 life-threatening illnesses.

22 (a) (1) Before issuing a license to a person or persons to operate
23 or manage a residential care facility, the department shall secure
24 from an appropriate law enforcement agency a criminal record to
25 determine whether the applicant or any other person specified in
26 subdivision (b) has ever been convicted of a crime other than a
27 minor traffic violation or arrested for any crime specified in
28 subdivision (c) of Section 290 of the Penal Code, for violating
29 Section 245 or 273.5, subdivision (b) of Section 273a or, prior to
30 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
31 or for any crime for which the department cannot grant an
32 exemption if the person was convicted and the person has not been
33 exonerated.

34 (2) The criminal history information shall include the full
35 criminal record if any, of those persons, and subsequent arrest
36 information pursuant to Section 11105.2 of the Penal Code.

37 (3) The following shall apply to the criminal record information:

38 (A) If the State Department of Social Services finds that the
39 applicant or another person specified in subdivision (b) has been
40 convicted of a crime, other than a minor traffic violation, the

1 application shall be denied, unless the director grants an exemption
2 pursuant to subdivision (f).

3 (B) If the State Department of Social Services finds that the
4 applicant, or another person specified in subdivision (b) is awaiting
5 trial for a crime other than a minor traffic violation, the State
6 Department of Social Services may cease processing the application
7 until the conclusion of the trial.

8 (C) If no criminal record information has been recorded, the
9 Department of Justice shall provide the applicant and the State
10 Department of Social Services with a statement of that fact.

11 (D) If the State Department of Social Services finds after
12 licensure that the licensee, or any other person specified in
13 paragraph (2) of subdivision (b), has been convicted of a crime
14 other than a minor traffic violation, the license may be revoked,
15 unless the director grants an exemption pursuant to subdivision
16 (f).

17 (E) An applicant and any other person specified in subdivision
18 (b) shall submit fingerprint images and related information to the
19 Department of Justice and the Federal Bureau of Investigation,
20 through the Department of Justice, for a state and federal level
21 criminal offender record information search, in addition to the
22 search required by this subdivision. If an applicant meets all other
23 conditions for licensure, except receipt of the Federal Bureau of
24 Investigation's criminal history information for the applicant and
25 persons listed in subdivision (b), the department may issue a license
26 if the applicant and each person described by subdivision (b) has
27 signed and submitted a statement that he or she has never been
28 convicted of a crime in the United States, other than a traffic
29 infraction as defined in paragraph (1) of subdivision (a) of Section
30 42001 of the Vehicle Code. If, after licensure, the department
31 determines that the licensee or person specified in subdivision (b)
32 has a criminal record, the license may be revoked pursuant to
33 subdivision (a) of Section 1568.082. The department may also
34 suspend the license pending an administrative hearing pursuant to
35 subdivision (b) of Section 1568.082.

36 (b) In addition to the applicant, this section shall be applicable
37 to criminal convictions of the following persons:

38 (1) Adults responsible for administration or direct supervision
39 of staff of the facility.

40 (2) A person, other than a resident, residing in the facility.

1 (3) A person who provides resident assistance in dressing,
2 grooming, bathing, or personal hygiene. A nurse assistant or home
3 health aide meeting the requirements of Section 1338.5 or 1736.6,
4 respectively, who is not employed, retained, or contracted by the
5 licensee, and who has been certified or recertified on or after July
6 1, 1998, shall be deemed to meet the criminal record clearance
7 requirements of this section. A certified nurse assistant and certified
8 home health aide who will be providing client assistance and who
9 falls under this exemption shall provide one copy of his or her
10 current certification, prior to providing care, to the residential care
11 facility for persons with chronic, life-threatening illness. The
12 facility shall maintain the copy of the certification on file as long
13 as care is being provided by the certified nurse assistant or certified
14 home health aide at the facility. This paragraph does not restrict
15 the right of the department to exclude a certified nurse assistant
16 or certified home health aide from a licensed residential care
17 facility for persons with chronic, life-threatening illness pursuant
18 to Section 1568.092.

19 (4) (A) A staff person, volunteer, or employee who has contact
20 with the residents.

21 (B) A volunteer shall be exempt from the requirements of this
22 subdivision if he or she is a relative, significant other, or close
23 friend of a client receiving care in the facility and the volunteer
24 does not provide direct care and supervision of residents. A
25 volunteer who provides direct care and supervision shall be exempt
26 if the volunteer is a resident's spouse, significant other, close
27 friend, or family member and provides direct care and supervision
28 to that resident only at the request of the resident. The department
29 may define in regulations persons similar to those described in this
30 subparagraph who may be exempt from the requirements of this
31 subdivision.

32 (5) If the applicant is a firm, partnership, association, or
33 corporation, the chief executive officer or other person serving in
34 that capacity.

35 (6) Additional officers of the governing body of the applicant,
36 or other persons with a financial interest in the applicant, as
37 determined necessary by the department by regulation. The criteria
38 used in the development of these regulations shall be based on the
39 person's capability to exercise substantial influence over the
40 operation of the facility.

1 (c) (1) (A) Subsequent to initial licensure, a person specified
2 in subdivision (b) and not exempted from fingerprinting shall, as
3 a condition to employment, residence, or presence in a residential
4 care facility, be fingerprinted and sign a declaration under penalty
5 of perjury regarding any prior criminal convictions. The licensee
6 shall submit fingerprint images and related information to the
7 Department of Justice and the Federal Bureau of Investigation,
8 through the Department of Justice, for a state and federal level
9 criminal offender record information search, or to comply with
10 paragraph (1) of subdivision (g), prior to the person's employment,
11 residence, or initial presence in the residential care facility.

12 (B) These fingerprint images and related information shall be
13 electronically submitted to the Department of Justice in a manner
14 approved by the State Department of Social Services and the
15 Department of Justice, for the purpose of obtaining a permanent
16 set of fingerprints. A licensee's failure to submit fingerprint images
17 and related information to the Department of Justice, or to comply
18 with paragraph (1) of subdivision (g), as required in this section,
19 shall result in the citation of a deficiency and an immediate
20 assessment of civil penalties in the amount of one hundred dollars
21 (\$100) per violation per day for a maximum of five days, unless
22 the violation is a second or subsequent violation within a 12-month
23 period in which case the civil penalties shall be in the amount of
24 one hundred dollars (\$100) per violation for a maximum of 30
25 days, and shall be grounds for disciplining the licensee pursuant
26 to Section 1568.082. The State Department of Social Services may
27 assess civil penalties for continued violations as allowed in Section
28 1568.0822. The fingerprint images and related information shall
29 then be submitted to the Department of Justice for processing. The
30 licensee shall maintain and make available for inspection
31 documentation of the individual's clearance or exemption.

32 (2) A violation of the regulations adopted pursuant to Section
33 1522.04 shall result in the citation of a deficiency and an immediate
34 assessment of civil penalties in the amount of one hundred dollars
35 (\$100) per violation per day for a maximum of five days, unless
36 the violation is a second or subsequent violation within a 12-month
37 period in which case the civil penalties shall be in the amount of
38 one hundred dollars (\$100) per violation for a maximum of 30
39 days, and shall be grounds for disciplining the licensee pursuant

1 to Section 1568.082. The department may assess civil penalties
2 for continued violations as permitted by Section 1568.0822.

3 (3) Within 14 calendar days of the receipt of the fingerprint
4 images, the Department of Justice shall notify the State Department
5 of Social Services of the criminal record information, as provided
6 for in this subdivision. If no criminal record information has been
7 recorded, the Department of Justice shall provide the licensee and
8 the State Department of Social Services with a statement of that
9 fact within 14 calendar days of receipt of the fingerprint images.
10 If new fingerprint images are required for processing, the
11 Department of Justice shall, within 14 calendar days from the date
12 of receipt of the fingerprint images, notify the licensee that the
13 fingerprint images were illegible. The Department of Justice shall
14 notify the department, as required by Section 1522.04, and shall
15 notify the licensee by mail within 14 days of electronic
16 transmission of the fingerprint images to the Department of Justice,
17 if the person has no criminal history record.

18 (4) Except for persons specified in paragraph (2) of subdivision
19 (b), the licensee shall endeavor to ascertain the previous
20 employment history of persons required to be fingerprinted under
21 this subdivision. If it is determined by the State Department of
22 Social Services, on the basis of the fingerprint images submitted
23 to the Department of Justice, that the person has been convicted
24 of a sex offense against a minor, an offense specified in Section
25 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
26 the department shall notify the licensee to act immediately to
27 terminate the person's employment, remove the person from the
28 residential care facility, or bar the person from entering the
29 residential care facility. The department may subsequently grant
30 an exemption pursuant to subdivision (f). If the conviction was for
31 another crime, except a minor traffic violation, the licensee shall,
32 upon notification by the department, act immediately to either (A)
33 terminate the person's employment, remove the person from the
34 residential care facility, or bar the person from entering the
35 residential care facility; or (B) seek an exemption pursuant to
36 subdivision (f). The department shall determine if the person shall
37 be allowed to remain in the facility until a decision on the
38 exemption is rendered. A licensee's failure to comply with the
39 department's prohibition of employment, contact with clients, or
40 presence in the facility as required by this paragraph shall result

1 in a citation of deficiency and an immediate assessment of civil
2 penalties by the department against the licensee, in the amount of
3 one hundred dollars (\$100) per violation per day for a maximum
4 of five days, unless the violation is a second or subsequent violation
5 within a 12-month period in which case the civil penalties shall
6 be in the amount of one hundred dollars (\$100) per violation for
7 a maximum of 30 days, and shall be grounds for disciplining the
8 licensee pursuant to Section 1568.082.

9 (5) The department may issue an exemption on its own motion
10 pursuant to subdivision (f) if the person's criminal history indicates
11 that the person is of good character based on the age, seriousness,
12 and frequency of the conviction or convictions. The department,
13 in consultation with interested parties, shall develop regulations
14 to establish the criteria to grant an exemption pursuant to this
15 paragraph.

16 (6) Concurrently with notifying the licensee pursuant to
17 paragraph (4), the department shall notify the affected individual
18 of his or her right to seek an exemption pursuant to subdivision
19 (f). The individual may seek an exemption only if the licensee
20 terminates the person's employment or removes the person from
21 the facility after receiving notice from the department pursuant to
22 paragraph (4).

23 (d) (1) For purposes of this section or any other provision of
24 this chapter, a conviction means a plea or verdict of guilty or a
25 conviction following a plea of nolo contendere. An action that the
26 department is permitted to take following the establishment of a
27 conviction may be taken when the time for appeal has elapsed,
28 when the judgment of conviction has been affirmed on appeal, or
29 when an order granting probation is made suspending the
30 imposition of the sentence, notwithstanding a subsequent order
31 pursuant to Sections 1203.4 and 1203.4a of the Penal Code
32 permitting that person to withdraw his or her plea of guilty and to
33 enter a plea of not guilty, setting aside the verdict of guilty, or
34 dismissing the accusation, information, or indictment. For purposes
35 of this chapter, the record of a conviction, or a copy thereof
36 certified by the clerk of the court or by a judge of the court in
37 which the conviction occurred, shall be conclusive evidence of the
38 conviction. For purposes of this section or any other provision of
39 this chapter, the arrest disposition report certified by the
40 Department of Justice, or documents admissible in a criminal action

1 pursuant to Section 969b of the Penal Code, shall be prima facie
2 evidence of the conviction, notwithstanding any other provision
3 of law prohibiting the admission of these documents in a civil or
4 administrative action.

5 (2) For purposes of this section or any other provision of this
6 chapter, the department shall consider criminal convictions from
7 another state or federal court as if the criminal offense was
8 committed in this state.

9 (e) The State Department of Social Services shall not use a
10 record of arrest to deny, revoke, or terminate any application,
11 license, employment, or residence unless the department
12 investigates the incident and secures evidence, whether or not
13 related to the incident of arrest, that is admissible in an
14 administrative hearing to establish conduct by the person that may
15 pose a risk to the health and safety of any person who is or may
16 become a client. The State Department of Social Services is
17 authorized to obtain arrest or conviction records or reports from a
18 law enforcement agency as necessary to the performance of its
19 duties to inspect, license, and investigate community care facilities
20 and individuals associated with a community care facility.

21 (f) (1) After review of the record, the director may grant an
22 exemption from disqualification for a license as specified in
23 paragraphs (1) and (4) of subdivision (a), or for employment,
24 residence, or presence in a residential care facility as specified in
25 paragraphs (4), (5), and (6) of subdivision (c) if the director has
26 substantial and convincing evidence to support a reasonable belief
27 that the applicant and the person convicted of the crime, if other
28 than the applicant, are of such good character as to justify issuance
29 of the license or special permit or granting an exemption for
30 purposes of subdivision (c). However, an exemption shall not be
31 granted pursuant to this subdivision if the conviction was for any
32 of the following offenses:

33 (A) An offense specified in Section 220, 243.4, or 264.1,
34 subdivision (a) of Section 273a or, prior to January 1, 1994,
35 paragraph (1) of Section 273a, Section 273d, 288, or 289,
36 subdivision (c) of Section 290, or Section 368 of the Penal Code,
37 or was a conviction of another crime against an individual specified
38 in subdivision (c) of Section 667.5 of the Penal Code.

39 (B) A felony offense specified in Section 729 of the Business
40 and Professions Code or Section 206 or 215, subdivision (a) of

1 Section 347, subdivision (b) of Section 417, or subdivision (a) of
2 Section 451 of the Penal Code.

3 (2) The department shall not prohibit a person from being
4 employed or having contact with clients in a facility on the basis
5 of a denied criminal record exemption request or arrest information
6 unless the department complies with Section 1568.092.

7 (g) (1) For purposes of compliance with this section, the
8 department may permit an individual to transfer a current criminal
9 record clearance, as defined in subdivision (a), from one facility
10 to another, as long as the criminal record clearance has been
11 processed through a state licensing district office, and is being
12 transferred to another facility licensed by a state licensing district
13 office. The request shall be in writing to the department, and shall
14 include a copy of the person's driver's license or valid
15 identification card issued by the Department of Motor Vehicles,
16 or a valid photo identification issued by another state or the United
17 States government if the person is not a California resident. Upon
18 request of the licensee, who shall enclose a self-addressed stamped
19 envelope for this purpose, the department shall verify whether the
20 individual has a clearance that can be transferred.

21 (2) The State Department of Social Services shall hold criminal
22 record clearances in its active files for a minimum of two years
23 after an employee is no longer employed at a licensed facility in
24 order for the criminal record clearance to be transferred.

25 (h) If a licensee or facility is required by law to deny
26 employment or to terminate employment of any employee based
27 on written notification from the state department that the employee
28 has a prior criminal conviction or is determined unsuitable for
29 employment under Section 1568.092, the licensee or facility shall
30 not incur civil liability or unemployment insurance liability as a
31 result of that denial or termination.

32 (i) (1) The Department of Justice shall charge a fee sufficient
33 to cover its cost in providing services to comply with the 14-day
34 requirement contained in subdivision (c) for provision to the
35 department of criminal record information.

36 (2) Paragraph (1) shall cease to be implemented when the
37 department adopts emergency regulations pursuant to Section
38 1522.04, and shall become inoperative when permanent regulations
39 are adopted under that section.

1 (j) Notwithstanding any other provision of law, the department
2 may provide an individual with a copy of his or her state or federal
3 level criminal offender record information search response as
4 provided to that department by the Department of Justice if the
5 department has denied a criminal background clearance based on
6 this information and the individual makes a written request to the
7 department for a copy specifying an address to which it is to be
8 sent. The state or federal level criminal offender record information
9 search response shall not be modified or altered from its form or
10 content as provided by the Department of Justice and shall be
11 provided to the address specified by the individual in his or her
12 written request. The department shall retain a copy of the
13 individual's written request and the response and date provided.

14 ~~SEC. 144.~~

15 *SEC. 143.* Section 1569.145 of the Health and Safety Code is
16 amended to read:

17 1569.145. This chapter shall not apply to any of the following:

18 (a) A health facility, as defined by Section 1250.

19 (b) A clinic, as defined by Section 1200.

20 (c) A facility conducted by and for the adherents of a
21 well-recognized church or religious denomination for the purpose
22 of providing facilities for the care or treatment of the sick who
23 depend upon prayer or spiritual means for healing in the practice
24 of the religion of that church or denomination.

25 (d) A house, institution, hotel, congregate housing project for
26 the elderly, or other similar place that is limited to providing one
27 or more of the following: housing, meals, transportation,
28 housekeeping, or recreational and social activities, or that have
29 residents independently accessing supportive services, provided,
30 however, that no resident thereof requires an element of care and
31 supervision or protective supervision as determined by the director.
32 This subdivision shall not include a home or residence that is
33 described in subdivision (f).

34 (e) Recovery houses or other similar facilities providing group
35 living arrangements for persons recovering from alcoholism or
36 drug addiction where the facility provides no care or supervision.

37 (f) (1) An arrangement for the care and supervision of a person
38 or persons by a family member.

39 (2) An arrangement for the care and supervision of a person or
40 persons from only one family by a close friend, whose friendship

1 preexisted the contact between the provider and the recipient, and
2 both of the following are met:

3 (A) The care and supervision is provided in a home or residence
4 chosen by the recipient.

5 (B) The arrangement is not of a business nature and occurs only
6 as long as the needs of the recipient for care and supervision are
7 adequately met.

8 (g) Housing for elderly or disabled persons, or both, that is
9 approved and operated pursuant to Section 202 of Public Law
10 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law
11 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured
12 pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec.
13 1715z), or that receives mortgage assistance pursuant to Section
14 221d(3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where
15 supportive services are made available to residents at their option,
16 as long as the project owner or operator does not contract for or
17 provide the supportive services. The project owner or operator
18 may coordinate, or help residents gain access to, the supportive
19 services, either directly, or through a service coordinator.

20 (h) A similar facility determined by the director.

21 (i) For purposes of this section, “family member” means a
22 spouse, by marriage or otherwise, child or stepchild, by natural
23 birth or by adoption, parent, brother, sister, half brother, half sister,
24 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
25 uncle, first cousin, or a person denoted by the prefix “grand” or
26 “great,” or the spouse of one of these persons.

27 (j) A person shall not be exempted from this chapter’s licensure
28 requirements if he or she has been appointed as conservator of the
29 person, estate of the person, or both, if the person is receiving care
30 and supervision from the conservator as regulated by this chapter,
31 unless the conservator is otherwise exempted under other
32 provisions of this section.

33 ~~SEC. 145.~~

34 *SEC. 144.* Section 1728.8 of the Health and Safety Code is
35 amended to read:

36 1728.8. (a) It is the intent of the Legislature to ensure that the
37 department licenses and certifies home health agencies in a
38 reasonable and timely manner to ensure that Californians have
39 access to critical home- and community-based services. Home
40 health agencies have significant startup costs and regulatory

1 requirements, which make home health agencies vulnerable to
2 delays in licensing and certification surveys. Home health agencies
3 help the state protect against the unnecessary institutionalization
4 of individuals and are integral in ensuring the state's compliance
5 with the United States Supreme Court decision in *Olmstead v.*
6 *L.C.* (1999) 527 U.S. 581, which requires public agencies to
7 provide services in the most integrated setting appropriate to the
8 needs of qualified individuals with disabilities.

9 (b) No later than 90 calendar days after the department receives
10 an initial and complete parent, branch, or change of ownership
11 home health agency application, the department shall make every
12 effort to complete the application paperwork and conduct a
13 licensure survey, if necessary, to inspect the agency and evaluate
14 the agency's compliance with state requirements. The department
15 shall forward its recommendation, if necessary, and all other
16 information, to the federal Centers for Medicare and Medicaid
17 Services within the same 90 calendar days.

18 (c) (1) For those applicants seeking to receive reimbursement
19 under the Medicare or Medi-Cal programs, the department shall
20 make every effort to complete the initial application paperwork
21 and conduct an unannounced certification survey, if necessary, no
22 later than 90 calendar days after the department conducts the
23 licensure survey required by subdivision (a), or no later than 90
24 days after the department's receipt of a letter from the home health
25 agency notifying the department of its readiness for the certification
26 survey from a parent or branch agency.

27 (2) No later than 30 calendar days after the certification survey,
28 the department shall forward the results of its licensure and
29 certification surveys and all other information necessary for
30 certification to the federal Centers for Medicare and Medicaid
31 Services.

32 (d) This section shall apply to all licensing and certification
33 entities, including a county that contracts with the state to provide
34 licensing and certification services on behalf of the state.

35 (e) If the department is unable to meet the 90-day timelines for
36 licensing or certification required pursuant to this section, the
37 department shall notify the applicant in writing of the delay and
38 the anticipated date of the survey.

39 (f) This section shall become operative on July 1, 2008.

1 ~~SEC. 146.~~

2 *SEC. 145.* Section 11752.1 of the Health and Safety Code is
3 amended to read:

4 11752.1. (a) “County board of supervisors” includes county
5 boards of supervisors in the case of counties acting jointly.

6 (b) “Agency” means the California Health and Human Services
7 Agency.

8 (c) “Secretary” means the Secretary of California Health and
9 Human Services.

10 (d) “County plan for alcohol and other drug services” or “county
11 plan” means the county plan, including a budget, adopted by the
12 board of supervisors pursuant to Chapter 4 (commencing with
13 Section 11795) ~~of Part 2.~~

14 (e) “Advisory board” means the county advisory board on
15 alcohol and other drug problems established at the sole discretion
16 of the county board of supervisors pursuant to Section 11805. If
17 a county does not establish an advisory board, then any provision
18 of this chapter relative to the activities, duties, and functions of
19 the advisory board shall be inapplicable to that county.

20 (f) “Alcohol and drug program administrator” means the county
21 program administrator designated pursuant to Section 11800.

22 (g) “State alcohol and other drug program” includes all state
23 alcohol and other drug projects administered by the department
24 and all county alcohol and other drug programs funded under this
25 division.

26 (h) “Health systems agency” means the health planning agency
27 established pursuant to Public Law 93-641.

28 (i) “Alcohol and other drug problems” means problems of
29 individuals, families, and the community that are related to the
30 abuse of alcohol and other drugs.

31 (j) “Alcohol abuser” means anyone who has a problem related
32 to the consumption of alcoholic beverages whether or not it is of
33 a periodic or continuing nature. This definition includes, but is not
34 limited to, persons referred to as “alcoholics” and “drinking
35 drivers.” These problems may be evidenced by substantial
36 impairment to the person’s physical, mental, or social well-being,
37 which impairment adversely affects his or her abilities to function
38 in the community.

39 (k) “Drug abuser” means anyone who has a problem related to
40 the consumption of illicit, illegal, legal, or prescription drugs or

1 over-the-counter medications in a manner other than prescribed,
2 whether or not it is of a periodic or continuing nature. This
3 definition includes, but is not limited to, persons referred to as
4 “drug addicts.” The drug-consumption-related problems of these
5 persons may be evidenced by substantial impairment to the
6 person’s physical, mental, or social well-being, which impairment
7 adversely affects his or her abilities to function in the community.

8 (l) “Alcohol and other drug service” means a service that is
9 designed to encourage recovery from the abuse of alcohol and
10 other drugs and to alleviate or preclude problems in the individual,
11 his or her family, and the community.

12 (m) “Alcohol and other drug abuse program” means a collection
13 of alcohol and other drug services that are coordinated to achieve
14 the specified objectives of this part.

15 (n) “Driving-under-the-influence program,” “DUI program,”
16 or “licensed program” means an alcohol and other drug service
17 that has been issued a valid license by the department to provide
18 services pursuant to Chapter 9 (commencing with Section 11836)
19 of Part 2.

20 (o) “Clients-participants” means recipients of alcohol and other
21 drug prevention, treatment, and recovery program services.

22 (p) “Substance Abuse and Mental Health Services
23 Administration” means that agency of the United States Department
24 of Health and Human Services.

25 ~~SEC. 147.~~

26 *SEC. 146.* Section 25210.9 of the Health and Safety Code is
27 amended to read:

28 25210.9. (a) Except as provided in subdivisions (e), (f), and
29 (g), on and after January 1, 2010, a person shall not manufacture
30 general purpose lights for sale in this state that contain levels of
31 hazardous substances that would result in the prohibition of those
32 general purpose lights being sold or offered for sale in the European
33 Union pursuant to the RoHS Directive.

34 (b) Except as provided in subdivisions (e), (f), and (g), on and
35 after January 1, 2010, a person shall not sell or offer for sale in
36 this state a general purpose light under any of the following
37 circumstances:

38 (1) The general purpose light being sold or offered for sale was
39 manufactured on and after January 1, 2010, and contains levels of
40 hazardous substances that would result in the prohibition of that

1 general purpose light being sold or offered for sale in the European
2 Union pursuant to the RoHS Directive.

3 (2) The manufacturer of the general purpose light sold or being
4 offered for sale fails to provide the documentation to the
5 department required by subdivision (h).

6 (3) The manufacturer of the general purpose light being sold or
7 offered for sale does not provide the certification required in
8 subdivision (i).

9 (c) For the purposes of this section, “RoHS Directive” means
10 Directive 2002/95/EC, adopted by the European Parliament and
11 the Council of the European Union on January 27, 2003, on the
12 restriction of certain hazardous substances in electrical and
13 electronic equipment, as amended thereafter by the Commission
14 of European Communities (13.2.2003 Official Journal of the
15 European Union).

16 (d) The department shall determine the products covered by the
17 RoHS Directive by reference to authoritative guidance published
18 by the United Kingdom implementing the RoHS Directive in that
19 country.

20 (e) (1) Except as provided in paragraph (2), subdivisions (a),
21 (b), (h), and (i) do not apply to high output and very high output
22 linear fluorescent lamps greater than 32 millimeters in diameter
23 and preheat linear fluorescent lamps.

24 (2) On or after January 1, 2014, the department shall determine,
25 in consultation with companies that manufacture lamps specified
26 in paragraph (1) in the United States, if those lamps should be
27 subject to the requirements of subdivisions (a), (b), (h), and (i),
28 taking into consideration changes in lamp design or manufacturing
29 technology that will allow for the removal or reduction of mercury.

30 (f) On and after January 1, 2012, for high intensity discharge
31 lamps and compact fluorescent lamps greater than nine inches in
32 length, subdivisions (a), (b), (h), and (i) shall be applicable.

33 (g) On and after January 1, 2014, for state-regulated general
34 service incandescent lamps and enhanced spectrum lamps as
35 defined in subdivision (k) of Section 1602 of Title 20 of the
36 California Code of Regulations, subdivisions (a), (b), (h), and (i)
37 shall be applicable.

38 (h) A manufacturer of general purpose lights sold or being
39 offered for sale in California shall prepare and, at the request of
40 the department, submit within 28 days of the date of the request,

1 technical documentation or other information showing that the
2 manufacturer's general purpose lights sold or offered for sale in
3 this state comply with the requirements of the RoHS Directive.

4 (i) A manufacturer of general purpose lights sold or being
5 offered for sale in California shall provide, upon request, a
6 certification to a person who sells or offers for sale that
7 manufacturer's general purpose lights. The certification shall attest
8 that the general purpose lights do not contain levels of hazardous
9 substances that would result in the prohibition of those general
10 purpose lights being sold or offered for sale in California.
11 Alternatively, the manufacturer may display the certification
12 required by this subdivision prominently on the shipping container
13 or on the packaging of general purpose lights.

14 (j) The department may adopt regulations to implement and
15 administer this article.

16 ~~SEC. 148.~~

17 *SEC. 147.* Section 25270.2 of the Health and Safety Code is
18 amended to read:

19 25270.2. For purposes of this chapter, the following definitions
20 apply:

21 (a) "Aboveground storage tank" or "storage tank" means a tank
22 that has the capacity to store 55 gallons or more of petroleum and
23 that is substantially or totally above the surface of the ground.
24 "Aboveground storage tank" does not include any of the following:

25 (1) A pressure vessel or boiler that is subject to Part 6
26 (commencing with Section 7620) of Division 5 of the Labor Code.

27 (2) A tank containing hazardous waste, as defined in subdivision
28 (g) of Section 25316, if the Department of Toxic Substances
29 Control has issued the person owning or operating the tank a
30 hazardous waste facilities permit for the storage tank.

31 (3) An aboveground oil production tank that is subject to Section
32 3106 of the Public Resources Code.

33 (4) Oil-filled electrical equipment, including, but not limited
34 to, transformers, circuit breakers, or capacitors, if the oil-filled
35 electrical equipment meets either of the following conditions:

36 (A) The equipment contains less than 10,000 gallons of dielectric
37 fluid.

38 (B) The equipment contains 10,000 gallons or more of dielectric
39 fluid with PCB levels less than 50 parts per million, appropriate
40 containment or diversionary structures or equipment are employed

1 to prevent discharged oil from reaching a navigable water course,
2 and the electrical equipment is visually inspected in accordance
3 with the usual routine maintenance procedures of the owner or
4 operator.

5 (5) A tank regulated as an underground storage tank under
6 Chapter 6.7 (commencing with Section 25280) of this code and
7 Chapter 16 (commencing with Section 2610) of Division 3 of Title
8 23 of the California Code of Regulations.

9 (6) A transportation-related tank facility, subject to the authority
10 and control of the United States Department of Transportation, as
11 defined in the Memorandum of Understanding between the
12 Secretary of Transportation and the Administrator of the United
13 States Environmental Protection Agency, dated November 24,
14 1971, set forth in Appendix A to Part 112 (commencing with
15 Section 112.1) of Subchapter D of Chapter I of Title 40 of the
16 Code of Federal Regulations.

17 (b) “Board” means the State Water Resources Control Board.

18 (c) (1) “Certified Unified Program Agency” or “CUPA” means
19 the agency certified by the Secretary for Environmental Protection
20 to implement the unified program specified in Chapter 6.11
21 (commencing with Section 25404) within a jurisdiction.

22 (2) “Participating Agency” or “PA” means an agency that has
23 a written agreement with the CUPA pursuant to subdivision (d)
24 of Section 25404.3, and is approved by the secretary, to implement
25 and enforce the unified program element specified in paragraph
26 (2) of subdivision (c) of Section 25404, in accordance with Sections
27 25404.1 and 25404.2.

28 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
29 or its participating agencies to the extent that each PA has been
30 designated by the CUPA, pursuant to a written agreement, to
31 implement and enforce the unified program element specified in
32 paragraph (2) of subdivision (c) of Section 25404. The UPAs have
33 the responsibility and authority, to the extent provided by this
34 chapter and Sections 25404.1 and 25404.2, to implement and
35 enforce the requirements of this chapter.

36 (B) After a CUPA has been certified by the secretary, the unified
37 program agency shall be the only agency authorized to enforce the
38 requirements of this chapter.

39 (C) This paragraph does not limit the authority or responsibility
40 granted to the board and the regional boards by this chapter.

1 (d) “Operator” means the person responsible for the overall
2 operation of a tank facility.

3 (e) “Owner” means the person who owns the tank facility or
4 part of the tank facility.

5 (f) “Person” means an individual, trust, firm, joint stock
6 company, corporation, including a government corporation,
7 partnership, limited liability company, or association. “Person”
8 also includes any city, county, district, the University of California,
9 the California State University, the state, any department or agency
10 thereof, and the United States, to the extent authorized by federal
11 law.

12 (g) “Petroleum” means crude oil, or a fraction thereof, that is
13 liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
14 square inch absolute pressure.

15 (h) “Regional board” means a California regional water quality
16 control board.

17 (i) “Release” means any spilling, leaking, pumping, pouring,
18 emitting, emptying, discharging, escaping, leaching, or disposing
19 into the environment.

20 (j) “Secretary” means the Secretary for Environmental
21 Protection.

22 (k) “Storage” or “store” means the containment, handling, or
23 treatment of petroleum, for a period of time, including on a
24 temporary basis.

25 (l) “Storage capacity” means the aggregate capacity of all
26 aboveground tanks at a tank facility.

27 (m) “Tank facility” means one or more aboveground storage
28 tanks, including any piping that is integral to the tanks, that contain
29 petroleum and that are used by a single business entity at a single
30 location or site. For purposes of this chapter, a pipe is integrally
31 related to an aboveground storage tank if the pipe is connected to
32 the tank and meets any of the following:

33 (1) The pipe is within the dike or containment area.

34 (2) The pipe is between the containment area and the first flange
35 or valve outside the containment area.

36 (3) The pipe is connected to the first flange or valve on the
37 exterior of the tank, if state or federal law does not require a
38 containment area.

1 ~~SEC. 149.~~

2 *SEC. 148.* Section 25299.57 of the Health and Safety Code is
3 amended to read:

4 25299.57. (a) If the board makes the determination specified
5 in subdivision (d), the board may pay only for the costs of a
6 corrective action that exceed the level of financial responsibility
7 required to be obtained pursuant to Section 25299.32, but not more
8 than one million five hundred thousand dollars (\$1,500,000) for
9 each occurrence. In the case of an owner or operator who, as of
10 January 1, 1988, was required to perform corrective action, who
11 initiated that corrective action in accordance with Division 7
12 (commencing with Section 13000) of the Water Code or Chapter
13 6.7 (commencing with Section 25280), and who is undertaking
14 the corrective action in compliance with waste discharge
15 requirements or other orders issued pursuant to Division 7
16 (commencing with Section 13000) of the Water Code or Chapter
17 6.7 (commencing with Section 25280), the owner or operator may
18 apply to the board for satisfaction of a claim filed pursuant to this
19 article. The board shall notify claimants applying for satisfaction
20 of claims from the fund of eligibility for reimbursement in a prompt
21 and timely manner and that a letter of credit or commitment that
22 will obligate funds for reimbursement shall follow the notice of
23 eligibility as soon thereafter as possible.

24 (b) (1) For claims eligible for reimbursement pursuant to
25 subdivision (c) of Section 25299.55, the claimant shall submit the
26 actual cost of corrective action to the board, which shall either
27 approve or disapprove the costs incurred as reasonable and
28 necessary. At least 15 days before the board proposes to disapprove
29 the reimbursement of corrective action costs that have been
30 incurred on the grounds that the costs were unreasonable or
31 unnecessary, the board shall issue a notice advising the claimant
32 and the lead agency of the proposed disallowance, to allow review
33 and comment.

34 (2) The board shall not reject actual costs of corrective action
35 in a claim solely on the basis that the invoices submitted fail to
36 sufficiently detail the actual costs incurred, if all of the following
37 apply:

38 (A) Auxiliary documentation is provided that documents to the
39 board's satisfaction that the invoice is for necessary corrective
40 action work.

1 (B) The costs of corrective action work in the claim are
2 reasonably commensurate with similar corrective action work
3 performed during the same time period covered by the invoice for
4 which reimbursement is sought.

5 (C) The invoices include a brief description of the work
6 performed, the date that the work was performed, the vendor, and
7 the amount.

8 (c) (1) For claims eligible for prepayment pursuant to
9 subdivision (c) of Section 25299.55, the claimant shall submit the
10 estimated cost of the corrective action to the board, which shall
11 approve or disapprove the reasonableness of the cost estimate.

12 (2) If the claim is for reimbursement of costs incurred pursuant
13 to a performance-based contract, Article 6.5 (commencing with
14 Section 25299.64) shall apply to that claim.

15 (d) Except as provided in subdivision (j), a claim specified in
16 subdivision (a) may be paid if the board makes all of the following
17 findings:

18 (1) There has been an unauthorized release of petroleum into
19 the environment from an underground storage tank.

20 (2) The claimant is required to undertake or contract for
21 corrective action pursuant to Section 25296.10, or, as of January
22 1, 1988, the claimant has initiated corrective action in accordance
23 with Division 7 (commencing with Section 13000) of the Water
24 Code.

25 (3) The claimant has complied with Section 25299.31.

26 (4) (A) Except as provided in subparagraphs (B) and (C), the
27 claimant has complied with the permit requirements of Chapter
28 6.7 (commencing with Section 25280). A claimant shall obtain a
29 permit required by subdivision (a) of Section 25284 for the
30 underground storage tank that is the subject of the claim when the
31 claimant becomes subject to subdivision (a) of Section 25284 or
32 when the applicable local agency begins issuing permits pursuant
33 to subdivision (a) of Section 25284, whichever occurs later.

34 (B) A claimant who acquires real property on which an
35 underground storage tank is situated and, despite the exercise of
36 reasonable diligence, was unaware of the existence of the
37 underground storage tank when the real property was acquired,
38 has obtained a permit required by subdivision (a) of Section 25284
39 for the underground storage tank that is the subject of the claim
40 within a reasonable period, not to exceed one year, from when the

1 claimant should have become aware of the existence of the
2 underground storage tank, or when the applicable local agency
3 began issuing permits pursuant to Section 25284, whichever occurs
4 later.

5 (C) All claimants who file their claim on or after January 1,
6 2008, and who do not obtain a permit required by subdivision (a)
7 of Section 25284 in accordance with subparagraph (A) or (B) may
8 seek a waiver of the requirement to obtain a permit. The board
9 shall waive the provisions of subparagraphs (A) and (B) as a
10 condition for payment from the fund if the board finds all of the
11 following:

12 (i) The claimant was unaware of the permit requirement, and
13 upon becoming aware of the permit requirement, the claimant
14 complies with subdivision (a) of Section 25284 or Section 25298
15 and the regulations adopted to implement those sections within a
16 reasonable period, not to exceed one year, from when the claimant
17 became aware of the permit requirement.

18 (ii) Prior to submittal of the application to the fund, the claimant
19 has complied with Section 25299.31 and has obtained and paid
20 for all permits currently required by this paragraph.

21 (iii) Prior to submittal of the application to the fund, the claimant
22 has paid all fees, interest, and penalties imposed pursuant to Article
23 5 (commencing with Section 25299.40) of this chapter and Part
24 26 (commencing with Section 50101) of Division 2 of the Revenue
25 and Taxation Code for the underground storage tank that is the
26 subject of the claim.

27 (D) (i) A claimant who is exempted pursuant to subparagraph
28 (C) and who has complied, on or before December 22, 1998, with
29 subdivision (a) of Section 25284 or Section 25298 and the
30 regulations adopted to implement those sections, shall obtain a
31 level of financial responsibility twice as great as the amount that
32 the claimant is otherwise required to obtain pursuant to subdivision
33 (a) of Section 25299.32, but in no event less than ten thousand
34 dollars (\$10,000). All other claimants exempted pursuant to
35 subparagraph (C) shall obtain a level of financial responsibility
36 that is four times as great as the amount that the claimant is
37 otherwise required to obtain pursuant to subdivision (a) of Section
38 25299.32, but in no event less than twenty thousand dollars
39 (\$20,000).

1 (ii) The board may waive the requirements of clause (i) if the
2 claimant can demonstrate that the conditions specified in clauses
3 (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to
4 the causing of any contamination. The demonstration may be made
5 through a certification issued by the permitting agency based on
6 a site evaluation and tank tests at the time of permit application or
7 in any other manner acceptable to the board.

8 (E) All claimants who file a claim before January 1, 2008, and
9 who are not eligible for a waiver of the permit requirements
10 pursuant to applicable statutes or regulations in effect on the date
11 of the filing of the claim may resubmit a new claim pursuant to
12 subparagraph (C) on or after January 1, 2008. The board shall rank
13 all claims resubmitted pursuant to subparagraph (C) lower than
14 all claims filed before January 1, 2008, within their respective
15 priority classes specified in subdivision (b) of Section 25299.52.

16 (5) The board has approved either the costs incurred for the
17 corrective action pursuant to subdivision (b) or the estimated costs
18 for corrective action pursuant to subdivision (c).

19 (6) The claimant has paid all fees, interest, and penalties imposed
20 pursuant to Article 5 (commencing with Section 29299.40) of this
21 chapter and Part 26 (commencing with Section 50101) of Division
22 2 of the Revenue and Taxation Code for the underground storage
23 tank that is the subject of the claim.

24 (e) The board shall provide the claimant, whose cost estimate
25 has been approved, a letter of commitment authorizing payment
26 of the costs from the fund.

27 (f) The claimant may submit a request for partial payment to
28 cover the costs of corrective action performed in stages, as
29 approved by the board.

30 (g) (1) A claimant who submits a claim for payment to the
31 board shall submit multiple bids for prospective costs as prescribed
32 in regulations adopted by the board pursuant to Section 25299.77.

33 (2) A claimant who submits a claim to the board for the payment
34 of professional engineering and geologic work shall submit
35 multiple proposals and fee estimates, as required by the regulations
36 adopted by the board pursuant to Section 25299.77. The claimant's
37 selection of the provider of these services is not required to be
38 based on the lowest estimated fee, if the fee estimate conforms
39 with the range of acceptable costs established by the board.

1 (3) A claimant who submits a claim for payment to the board
2 for remediation construction contracting work shall submit multiple
3 bids, as required in the regulations adopted by the board pursuant
4 to Section 25299.77.

5 (4) Paragraphs (1), (2), and (3) do not apply to a tank owned or
6 operated by a public agency if the prospective costs are for private
7 professional services within the meaning of Chapter 10
8 (commencing with Section 4525) of Division 5 of Title 1 of the
9 Government Code and those services are procured in accordance
10 with the requirements of that chapter.

11 (h) The board shall provide, upon the request of a claimant,
12 assistance to the claimant in the selection of contractors retained
13 by the claimant to conduct reimbursable work related to corrective
14 actions. The board shall develop a summary of expected costs for
15 common corrective actions. This summary of expected costs may
16 be used by claimants as a guide in the selection and supervision
17 of consultants and contractors.

18 (i) The board shall pay, within 60 days from the date of receipt
19 of an invoice of expenditures, all costs specified in the work plan
20 developed pursuant to Section 25296.10, and all costs that are
21 otherwise necessary to comply with an order issued by a local,
22 state, or federal agency.

23 (j) (1) The board shall pay a claim of not more than three
24 thousand dollars (\$3,000) per occurrence for regulatory technical
25 assistance to an owner or operator who is otherwise eligible for
26 reimbursement under this chapter.

27 (2) For purposes of this subdivision, regulatory technical
28 assistance is limited to assistance from a person, other than the
29 claimant, in the preparation and submission of a claim to the fund.
30 Regulatory technical assistance does not include assistance in
31 connection with proceedings under Section 25296.40, 25299.39.2,
32 or 25299.56 or any action in court.

33 (k) (1) Notwithstanding any other provision of this section, the
34 board shall pay a claim for the costs of corrective action to a person
35 who owns property on which is located a release from a petroleum
36 underground storage tank that has been the subject of a completed
37 corrective action and for which additional corrective action is
38 required because of additionally discovered contamination from
39 the previous release, only if the person who carried out the earlier
40 and completed corrective action was eligible for, and applied for,

1 reimbursement pursuant to subdivision (b), and only to the extent
2 that the amount of reimbursement for the earlier corrective action
3 did not exceed the amount of reimbursement authorized by
4 subdivision (a). Reimbursement to a claimant on a reopened site
5 shall occur when funds are available, and reimbursement
6 commitment shall be made ahead of any new letters of commitment
7 to be issued, as of the date of the reopening of the claim, if funding
8 has occurred on the original claim, in which case funding shall
9 occur at the time it would have occurred under the original claim.

10 (2) For purposes of this subdivision, a corrective action is
11 completed when the local agency or regional board with
12 jurisdiction over the site or the board issues a closure letter pursuant
13 to subdivision (g) of Section 25296.10.

14 ~~SEC. 150.~~

15 *SEC. 149.* Section 25299.58 of the Health and Safety Code is
16 amended to read:

17 25299.58. (a) Except as provided in subdivision (d), if the
18 board makes the determination specified in subdivision (b), the
19 board may reimburse only those costs that are related to the
20 compensation of third parties for bodily injury and property
21 damages and that exceed the level of financial responsibility
22 required to be obtained pursuant to Section 25299.32, but not more
23 than one million dollars (\$1,000,000) for each occurrence.

24 (b) A claim may be paid if the board makes all of the following
25 findings:

26 (1) There has been an unauthorized release of petroleum into
27 the environment from an underground storage tank.

28 (2) The claimant has been ordered to pay a settlement or final
29 judgment for third-party bodily injury or property damage arising
30 from operating an underground storage tank.

31 (3) The claimant has complied with Section 25299.31.

32 (4) (A) Except as provided in subparagraphs (B) and (C), the
33 claimant has complied with the permit requirements of Chapter
34 6.7 (commencing with Section 25280). A claimant shall obtain a
35 permit required by subdivision (a) of Section 25284 for the
36 underground storage tank that is the subject of the claim when the
37 claimant becomes subject to subdivision (a) of Section 25284 or
38 when the applicable local agency begins issuing permits pursuant
39 to subdivision (a) of Section 25284, whichever occurs later.

1 (B) A claimant who acquires real property on which an
2 underground storage tank is situated and, despite the exercise of
3 reasonable diligence, was unaware of the existence of the
4 underground storage tank when the real property was acquired,
5 has obtained a permit required by subdivision (a) of Section 25284
6 for the underground storage tank that is the subject of the claim
7 within a reasonable period, not to exceed one year, from when the
8 claimant should have become aware of the existence of the
9 underground storage tank, or when the applicable local agency
10 began issuing permits pursuant to Section 25284, whichever occurs
11 later.

12 (C) All claimants who file their claim on or after January 1,
13 2008, and who do not obtain a permit required by subdivision (a)
14 of Section 25284 in accordance with subparagraph (A) or (B) may
15 seek a waiver of the requirement to obtain a permit. The board
16 shall waive the provisions of subparagraphs (A) and (B) as a
17 condition for payment from the fund if the board finds all of the
18 following:

19 (i) The claimant was unaware of the permit requirement, and
20 upon becoming aware of the permit requirement, the claimant
21 complies with subdivision (a) of Section 25284 or Section 25298
22 and the regulations adopted to implement those sections within a
23 reasonable period, not to exceed one year, from when the claimant
24 became aware of the permit requirement.

25 (ii) Prior to submittal of the application to the fund, the claimant
26 has complied with Section 25299.31 and has obtained and paid
27 for all permits currently required by this paragraph.

28 (iii) Prior to submittal of the application to the fund, the claimant
29 has paid all fees, interest, and penalties imposed pursuant to Article
30 5 (commencing with Section 25299.40) of this chapter and Part
31 26 (commencing with Section 50101) of Division 2 of the Revenue
32 and Taxation Code for the underground storage tank that is the
33 subject of the claim.

34 (D) (i) A claimant who is exempted pursuant to subparagraph
35 (C) and who has complied, on or before December 22, 1998, with
36 subdivision (a) of Section 25284 or Section 25298 and the
37 regulations adopted to implement those sections, shall obtain a
38 level of financial responsibility in an amount twice as great as the
39 amount that the claimant is otherwise required to obtain pursuant
40 to subdivision (a) of Section 25299.32, but in no event less than

1 ten thousand dollars (\$10,000). All other claimants exempted
2 pursuant to subparagraph (C) shall obtain a level of financial
3 responsibility that is four times as great as the amount that the
4 claimant is otherwise required to obtain pursuant to subdivision
5 (a) of Section 25299.32, but in no event less than twenty thousand
6 dollars (\$20,000).

7 (ii) The board may waive the requirements of clause (i) if the
8 claimant can demonstrate that the conditions specified in clauses
9 (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to
10 any contamination having been caused. The demonstration may
11 be made through a certification issued by the permitting agency
12 based on a site evaluation and tank tests at the time of permit
13 application or in any other manner as may be acceptable to the
14 board.

15 (E) All claimants who file a claim before January 1, 2008, and
16 who are not eligible for a waiver of the permit requirements
17 pursuant to applicable statutes or regulations in effect on the date
18 of the filing of the claim may resubmit a new claim pursuant to
19 subparagraph (C) on or after January 1, 2008. The board shall rank
20 all claims resubmitted pursuant to subparagraph (C) lower than
21 all claims filed before January 1, 2008, within their respective
22 priority classes specified in subdivision (b) of Section 25299.52.

23 ~~(4)~~

24 (5) The claimant is required to undertake or contract for
25 corrective action pursuant to Section 25296.10, or, as of January
26 1, 1988, the claimant has initiated corrective action in accordance
27 with Division 7 (commencing with Section 13000) of the Water
28 Code or Chapter 6.7 (commencing with Section 25280).

29 ~~(5)~~

30 (6) The claimant has paid all fees, interest, and penalties imposed
31 pursuant to Article 5 (commencing with Section 29299.40) of this
32 chapter and Part 26 (commencing with Section 50101) of Division
33 2 of the Revenue and Taxation Code for the underground storage
34 tank that is the subject of the claim.

35 (c) A claimant may be reimbursed by the fund for compensation
36 of third parties for only the following:

37 (1) Medical expenses.

38 (2) Actual lost wages or business income.

39 (3) Actual expenses for remedial action to remedy the effects
40 of damage to the property of the third party caused by the

1 unauthorized release of petroleum from an underground storage
2 tank.

3 (4) The fair market value of the property rendered permanently
4 unsuitable for use by the unauthorized release of petroleum from
5 an underground storage tank.

6 (d) The board shall pay a claim submitted pursuant to
7 subdivision (d) of Section 25299.54 for the costs related to the
8 compensation of third parties for bodily injury and property
9 damages that exceed the level of financial responsibility required
10 to be obtained pursuant to paragraph (2) of subdivision (a) of
11 Section 25299.32, but not more than one million dollars
12 (\$1,000,000) for each occurrence.

13 ~~SEC. 151.~~

14 *SEC. 150.* Section 39625.02 of the Health and Safety Code is
15 amended to read:

16 39625.02. (a) As used in this chapter and in Chapter 12.49
17 (commencing with Section 8879.20) of Division 1 of Title 2 of
18 the Government Code, the following terms have the following
19 meanings:

20 (1) “Administrative agency” means the state agency responsible
21 for programming bond funds made available by Chapter 12.49
22 (commencing with Section 8879.20) of Division 1 of Title 2 of
23 the Government Code, as specified in subdivision (c).

24 (2) Unless otherwise specified in this chapter, “project” includes
25 equipment purchase, right-of-way acquisition, and project delivery
26 costs.

27 (3) “Recipient agency” means the recipient of bond funds made
28 available by Chapter 12.49 (commencing with Section 8879.20)
29 of Division 1 of Title 2 of the Government Code that is responsible
30 for implementation of an approved project.

31 (4) “Fund” shall have the meaning as defined in subdivision (c)
32 of Section 8879.22 of the Government Code.

33 (b) Administrative costs, including audit and program oversight
34 costs for the agency administering the program funded pursuant
35 to this chapter, recoverable by bond funds shall not exceed 5
36 percent of the program’s costs.

37 (c) The State Air Resources Board is the administrative agency
38 for the goods movement emission reduction program pursuant to
39 paragraph (2) of subdivision (c) of Section 8879.23 of the
40 Government Code.

1 (d) The administrative agency shall not approve project fund
2 allocations for a project until the recipient agency provides a project
3 funding plan that demonstrates that the funds are expected to be
4 reasonably available and sufficient to complete the project. The
5 administrative agency may approve funding for usable project
6 segments only if the benefits associated with each individual
7 segment are sufficient to meet the objectives of the program from
8 which the individual segment is funded.

9 (e) Guidelines adopted by the administrative agency pursuant
10 to this chapter and Chapter 12.49 (commencing with Section
11 8879.20) of Division 1 of Title 2 of the Government Code are
12 intended to provide internal guidance for the agency and shall be
13 exempt from the Administrative Procedure Act (Chapter 3.5
14 (commencing with Section 11340) of Part 1 of Division 3 of Title
15 2 of the Government Code), and shall do all of the following:

16 (1) Provide for audit of project expenditures and outcomes.

17 (2) Require that the useful life of the project be identified as
18 part of the project nomination process.

19 (3) Require that project nominations have project delivery
20 milestones, including, but not limited to, start and completion dates
21 for environmental clearance, land acquisition, design, construction
22 bid award, construction completion, and project closeout, as
23 applicable.

24 (f) (1) As a condition for allocation of funds to a specific project
25 under Chapter 12.49 (commencing with Section 8879.20) of
26 Division 1 of Title 2 of the Government Code, the administrative
27 agency shall require the recipient agency to report, on a semiannual
28 basis, on the activities and progress made toward implementation
29 of the project. The administrative agency shall forward the report
30 to the Department of Finance by means approved by the
31 Department of Finance. The purpose of the report is to ensure that
32 the project is being executed in a timely fashion, and is within the
33 scope and budget identified when the decision was made to fund
34 the project. If it is anticipated that project costs will exceed the
35 approved project budget, the recipient agency shall provide a plan
36 to the administrative agency for achieving the benefits of the
37 project by either downscoping the project to remain within budget
38 or by identifying an alternative funding source to meet the cost
39 increase. The administrative agency may either approve the
40 corrective plan or direct the recipient agency to modify its plan.

1 (2) Within six months of the project becoming operable, the
2 recipient agency shall provide a report to the administrative agency
3 on the final costs of the project as compared to the approved project
4 budget, the project duration as compared to the original project
5 schedule as of the date of allocation, and performance outcomes
6 derived from the project compared to those described in the original
7 application for funding. The administrative agency shall forward
8 the report to the Department of Finance by means approved by the
9 Department of Finance.

10 ~~SEC. 152.~~

11 *SEC. 151.* Section 43869 of the Health and Safety Code is
12 amended to read:

13 43869. (a) The state board shall, no later than July 1, 2008,
14 develop and, after at least two public workshops, adopt hydrogen
15 fuel regulations to ensure the following:

16 (1) That state funding for the production and use of hydrogen
17 fuel, as described in the California Hydrogen Highway Blueprint
18 Plan, contributes to the reduction of greenhouse gas emissions,
19 criteria air pollutant emissions, and toxic air contaminant emissions.
20 The regulations, at a minimum, shall do all of the following:

21 (A) Require that, on a statewide basis, well-to-wheel emissions
22 of greenhouse gases for the average hydrogen-powered vehicle
23 fueled by hydrogen from fueling stations that receive state funds
24 are at least 30 percent lower than emissions for the average new
25 gasoline vehicle in California when measured on a per-mile basis.

26 (B) (i) Require that, on a statewide basis, no less than 33.3
27 percent of the hydrogen produced for, or dispensed by, fueling
28 stations that receive state funds be made from eligible renewable
29 energy resources as defined in Section 399.12 of the Public Utilities
30 Code.

31 (ii) If the state board determines that there is insufficient
32 availability of hydrogen fuel from eligible renewable resources to
33 meet the 33.3-percent requirement of this subparagraph, the state
34 board may, after at least one public workshop and on a one-time
35 basis, reduce the requirement by an amount, not to exceed 10
36 percentage points, that the state board determines is necessary to
37 result in a renewable percentage requirement for hydrogen fuel
38 that is achievable.

39 (iii) If the executive officer of the state board determines that
40 it is not feasible for a public transit operator to use hydrogen fuel

1 made from eligible renewable resources, the executive officer may
2 exempt the operator from the requirements of this subparagraph
3 for a period of not more than five years and may extend the
4 exemption for up to five additional years.

5 (C) Prohibit hydrogen fuel producers from counting as a
6 renewable energy resource, pursuant to clause (i) of subparagraph
7 (B), any electricity produced from sources previously procured by
8 a retail seller and verifiably counted by the retail seller towards
9 meeting the renewables portfolio standard obligation, as required
10 by Article 16 (commencing with Section 399.11) of Chapter 2.3
11 of Part 1 of Division 1 of the Public Utilities Code.

12 (D) Require that all hydrogen fuel dispensed from fueling
13 stations that receive state funds be generated in a manner so that
14 local well-to-tank emissions of nitrogen oxides plus reactive
15 organic gases are at least 50 percent lower than well-to-tank
16 emissions of the average motor gasoline sold in California when
17 measured on an energy equivalent basis.

18 (E) Require that well-to-tank emissions of relevant toxic air
19 contaminants for hydrogen fuel dispensed from fueling stations
20 that receive state funds be reduced to the maximum extent feasible
21 at each site when compared to well-to-tank emissions of toxic air
22 contaminants of the average motor gasoline fuel on an energy
23 equivalent basis. In no case shall the toxic emissions be greater
24 than the emissions from gasoline on an energy equivalent basis.

25 (F) Require that providers of hydrogen fuel for transportation
26 in the state report to the state board the annual mass of hydrogen
27 fuel dispensed and the method by which the dispensed hydrogen
28 was produced and delivered.

29 (G) Authorize the state board, after at least one public workshop,
30 to grant authority to the executive officer of the state board to
31 exempt from this paragraph, for a period of no more than five
32 years, hydrogen dispensing facilities constructed for small
33 demonstration or temporary purposes. The exemption may be
34 extended on a case-by-case basis upon a finding that the extension
35 will not harm public health. The executive officer may limit the
36 total number of exemptions by geographic region, including by
37 air district, but the average annual mass of hydrogen dispensed
38 from exempted facilities shall not exceed 10 percent of the total
39 mass of hydrogen fuel dispensed for transportation purposes in
40 the state.

1 (2) That, in any year immediately following a 12-month period
2 in which the mass of hydrogen fuel dispensed for transportation
3 purposes in California exceeds 3,500 metric tons, the production
4 and direct use of hydrogen fuels for motor vehicles in the state,
5 including, but not limited to, any hydrogen highway network that
6 is developed pursuant to the California Hydrogen Highway
7 Blueprint Plan, contributes to a reduced dependence on petroleum,
8 as well as reductions in greenhouse gas emissions, criteria air
9 pollutant emissions, and toxic air contaminant emissions. For the
10 purpose of this paragraph, the regulations, at a minimum, shall do
11 all of the following:

12 (A) Require that, on a statewide basis, well-to-wheel emissions
13 of greenhouse gases for the average hydrogen-powered vehicle in
14 California are at least 30 percent lower than emissions for the
15 average new gasoline vehicle in California when measured on a
16 per-mile basis.

17 (B) Require that, on a statewide basis, no less than 33.3 percent
18 of the hydrogen produced or dispensed in California for motor
19 vehicles be made from eligible renewable energy resources as
20 defined in Section 399.12 of the Public Utilities Code.

21 (C) Prohibit hydrogen fuel producers from counting as a
22 renewable energy resource, for purposes of subparagraph (B), any
23 electricity produced from sources previously procured by a retail
24 seller and verifiably counted by the retail seller towards meeting
25 the requirements established by the California Renewables
26 Portfolio Standard Program, as set forth in Article 16 (commencing
27 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
28 Public Utilities Code.

29 (D) Require that all hydrogen fuel dispensed in California for
30 motor vehicles be generated in a manner so that local well-to-tank
31 emissions of nitrogen oxides plus reactive organic gases are at
32 least 50 percent lower than well-to-tank emissions of the average
33 motor gasoline sold in California when measured on an energy
34 equivalent basis.

35 (E) Require that well-to-tank emissions of relevant toxic air
36 contaminants from hydrogen fuel produced or dispensed in
37 California be reduced to the maximum extent feasible at each site
38 when compared to well-to-tank emissions of toxic air contaminants
39 of the average motor gasoline fuel on an energy equivalent basis.
40 In no case shall the toxic emissions from hydrogen fuel be greater

1 than the toxic emissions from gasoline on an energy equivalent
2 basis.

3 (F) Authorize the state board, after at least one public workshop,
4 to grant authority to the executive officer of the state board to
5 exempt from this paragraph, for a period of no more than five
6 years, hydrogen dispensing facilities that dispense an average of
7 no more than 100 kilograms of hydrogen fuel per month. The
8 exemption may be extended on a case-by-case basis by the
9 executive officer upon a finding that the extension will not harm
10 public health. The executive officer may limit the total number of
11 exemptions by geographic region, including by air district, but the
12 average annual mass of hydrogen dispensed statewide from
13 exempted facilities shall not exceed 10 percent of the total mass
14 of hydrogen fuel dispensed for transportation purposes in the state.

15 (G) Authorize the state board, if it determines that reporting is
16 necessary to facilitate enforcement of the requirements of this
17 paragraph, to require that providers of hydrogen fuel for
18 transportation in the state report to the state board the annual mass
19 of hydrogen fuel dispensed and the method by which the dispensed
20 hydrogen was produced and delivered.

21 (b) Notwithstanding paragraph (2) of subdivision (a), the state
22 board may increase the 3,500-metric-ton threshold in paragraph
23 (2) of subdivision (a) by no more than 1,500 metric tons if at least
24 one of the following requirements is met:

25 (1) The 3,500-metric-ton threshold is first met prior to January
26 1, 2011.

27 (2) The state board determines that the 3,500-metric-ton
28 threshold has been met primarily due to hydrogen fuel consumed
29 in heavy duty vehicles.

30 (3) The state board determines at a public hearing that increasing
31 the threshold would accelerate the deployment of hydrogen fuel
32 cell vehicles in the state.

33 (c) The state board, in consultation with other relevant agencies
34 as appropriate, shall review the renewable resource requirements
35 adopted pursuant to this section every four years and shall increase
36 the renewable resource percentage requirements if it determines
37 that it is technologically feasible to do so and will not substantially
38 hinder the development of hydrogen as a transportation fuel in a
39 manner that is consistent with this section.

1 (d) The state board shall review the emission requirements
2 adopted pursuant to this section every four years and shall
3 strengthen the requirements if it determines it is technologically
4 feasible to do so and will not substantially hinder the development
5 of hydrogen as a transportation fuel in a manner that otherwise is
6 consistent with this section.

7 (e) The state board shall produce and periodically update a
8 handbook to inform and educate motor vehicle manufacturers,
9 hydrogen fuel producers, hydrogen service station operators, and
10 other interested parties on how to comply with the requirements
11 set forth in this section. This handbook shall be made available on
12 the agency's Internet Web site on or before July 1, 2009.

13 (f) The Secretary for Environmental Protection shall convene
14 the California Environmental Protection Agency's Environmental
15 Justice Advisory Committee at least once annually to solicit the
16 committee's comments on the production and distribution of
17 hydrogen fuel in the state.

18 (g) The Secretary for Environmental Protection, in consultation
19 with the state board, shall recommend to the Legislature and the
20 Governor, on or before January 1, 2010, incentives that could be
21 offered to businesses within the hydrogen fuel industry and
22 consumers to spur the development of clean sources of hydrogen
23 fuel.

24 (h) Unless the context requires otherwise, the definitions set
25 forth in this subdivision govern the construction of this section:

26 (1) "Well-to-tank emissions" means emissions resulting from
27 production of a fuel, including resource extraction, initial
28 processing, transport, fuel production, distribution and marketing,
29 and delivery into the fuel tank of a consumer vehicle.

30 (2) "Well-to-wheel emissions" means emissions resulting from
31 production of a fuel, including resource extraction, initial
32 processing, transport, fuel production, distribution and marketing,
33 and delivery and use in a consumer vehicle.

34 ~~SEC. 153.~~

35 *SEC. 152.* Section 44125 of the Health and Safety Code is
36 amended to read:

37 44125. (a) No later than July 1, 2009, the state board, in
38 consultation with the Bureau of Automotive Repair (BAR), shall
39 adopt a program to commence on January 1, 2010, that allows for
40 the voluntary retirement of passenger vehicles and light-duty and

1 medium-duty trucks that are high polluters. The program shall be
2 administered by the BAR pursuant to guidelines adopted by the
3 state board.

4 (b) The guidelines shall ensure all of the following:

5 (1) Vehicles retired pursuant to the program are permanently
6 removed from operation and retired at a dismantler under contract
7 with the BAR.

8 (2) Districts retain their authority to administer vehicle
9 retirement programs otherwise authorized under law.

10 (3) The program is available for high polluting passenger
11 vehicles and light-duty and medium-duty trucks that have been
12 continuously registered in California for two years prior to
13 acceptance into the program or otherwise proven to have been
14 driven primarily in California for the last two years and have not
15 been registered in another state or country in the last two years.

16 (4) The program is focused where the greatest air quality impact
17 can be identified.

18 (5) Compensation levels for retired vehicles are flexible, taking
19 into account factors including, but not limited to, the age of the
20 vehicle, the emission benefits of the vehicle's retirement, the
21 emission impact of any replacement vehicle, and the location of
22 vehicles in areas of the state with the poorest air quality.

23 (6) Cost-effectiveness and impacts on disadvantaged and
24 low-income populations are considered.

25 ~~SEC. 154.~~

26 *SEC. 153.* Section 44272 of the Health and Safety Code is
27 amended to read:

28 44272. (a) The Alternative and Renewable Fuel and Vehicle
29 Technology Program is hereby created. The program shall be
30 administered by the commission. The program shall provide, upon
31 appropriation by the Legislature, grants, revolving loans, loan
32 guarantees, loans, or other appropriate measures, to public agencies,
33 vehicle and technology consortia, businesses and projects,
34 public-private partnerships, workforce training partnerships and
35 collaboratives, fleet owners, consumers, recreational boaters, and
36 academic institutions to develop and deploy innovative
37 technologies that transform California's fuel and vehicle types to
38 help attain the state's climate change policies. The emphasis of
39 this program shall be to develop and deploy technology and

1 alternative and renewable fuels in the marketplace, without
2 adopting any one preferred fuel or technology.

3 (b) The commission shall provide preferences to those projects
4 that maximize the goals of the Alternative and Renewable Fuel
5 and Vehicle Technology Program, based on the following criteria,
6 as appropriate:

7 (1) The project's ability to provide a measurable transition from
8 the nearly exclusive use of petroleum fuels to a diverse portfolio
9 of viable alternative fuels that meet petroleum reduction and
10 alternative fuel use goals.

11 (2) The project's consistency with existing and future state
12 climate change policy and low-carbon fuel standards.

13 (3) The project's ability to reduce criteria air pollutants and air
14 toxics and reduce or avoid multimedia environmental impacts.

15 (4) The project's ability to decrease, on a life-cycle basis, the
16 emissions of water pollutants or any other substances known to
17 damage human health or the environment, in comparison to the
18 production and use of California Phase 2 Reformulated Gasoline
19 or diesel fuel produced and sold pursuant to California diesel fuel
20 regulations set forth in Article 2 (commencing with Section 2280)
21 of Chapter 5 of Division 3 of Title 13 of the California Code of
22 Regulations.

23 (5) The project does not adversely impact the sustainability of
24 the state's natural resources, especially state and federal lands.

25 (6) The project provides nonstate matching funds.

26 (7) The project provides economic benefits for California by
27 promoting California-based technology firms, jobs, and businesses.

28 (8) The project uses existing or proposed fueling infrastructure
29 to maximize the outcome of the project.

30 (9) The project's ability to reduce on a life-cycle assessment
31 greenhouse gas emissions by at least 10 percent, and higher
32 percentages in the future, from current reformulated gasoline and
33 diesel fuel standards established by the state board.

34 (10) The project's use of alternative fuel blends of at least 20
35 percent, and higher blend ratios in the future, with a preference
36 for projects with higher blends.

37 (11) The project drives new technology advancement for
38 vehicles, vessels, engines, and other equipment, and promotes the
39 deployment of that technology in the marketplace.

40 (c) All of the following shall be eligible for funding:

- 1 (1) Alternative and renewable fuel projects to develop and
2 improve alternative and renewable low-carbon fuels, including
3 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,
4 hydrogen, and biomethane, among others, and their feedstocks
5 that have high potential for long-term or short-term
6 commercialization, including projects that lead to sustainable
7 feedstocks.
- 8 (2) Demonstration and deployment projects that optimize
9 alternative and renewable fuels for existing and developing engine
10 technologies.
- 11 (3) Projects to produce alternative and renewable low-carbon
12 fuels in California.
- 13 (4) Projects to decrease the overall impact of an alternative and
14 renewable fuel's life-cycle carbon footprint and increase
15 sustainability.
- 16 (5) Alternative and renewable fuel infrastructure, fueling
17 stations, and equipment. The preference in paragraph (10) of
18 subdivision (b) shall not apply to these projects.
- 19 (6) Projects to develop and improve light-, medium-, and
20 heavy-duty vehicle technologies that provide for better fuel
21 efficiency and lower greenhouse gas emissions, alternative fuel
22 usage and storage, or emission reductions, including propulsion
23 systems, advanced internal combustion engines with a 40 percent
24 or better efficiency level over the current market standard,
25 lightweight materials, energy storage, control systems and system
26 integration, physical measurement and metering systems and
27 software, development of design standards and testing and
28 certification protocols, battery recycling and reuse, engine and fuel
29 optimization electronic and electrified components, hybrid
30 technology, plug-in hybrid technology, fuel cell technology, and
31 conversions of hybrid technology to plug-in technology through
32 the installation of safety certified supplemental battery modules.
- 33 (7) Programs and projects that accelerate the commercialization
34 of vehicles and alternative and renewable fuels including buy-down
35 programs through near-market and market-path deployments,
36 advanced technology warranty or replacement insurance,
37 development of market niches, and supply-chain development.
- 38 (8) Programs and projects to retrofit medium- and heavy-duty
39 on-road and nonroad vehicle fleets with technologies that create
40 higher fuel efficiencies, including alternative and renewable fuel

1 vehicles and technologies, idle management technology, and
2 aerodynamic retrofits that decrease fuel consumption.

3 (9) Infrastructure projects that promote alternative and renewable
4 fuel infrastructure development connected with existing fleets,
5 public transit, and existing transportation corridors, including
6 physical measurement or metering equipment and truck stop
7 electrification.

8 (10) Workforce training programs related to alternative and
9 renewable fuel feedstock production and extraction, renewable
10 fuel production, distribution, transport, and storage,
11 high-performance and low-emission vehicle technology and high
12 tower electronics, automotive computer systems, mass transit fleet
13 conversion, servicing, and maintenance, and other sectors or
14 occupations related to the purposes of this chapter.

15 (11) Block grants administered by not-for-profit technology
16 consortia for multiple projects, education and program promotion
17 within California, and development of alternative and renewable
18 fuel and vehicle technology centers.

19 (d) The same requirements in Section 25620.5 of the Public
20 Resources Code shall apply to awards made on a single source
21 basis or a sole sources basis.

22 ~~SEC. 155.~~

23 *SEC. 154.* Section 101317 of the Health and Safety Code is
24 amended to read:

25 101317. (a) For purposes of this article, allocations shall be
26 made to the administrative bodies of qualifying local health
27 jurisdictions described as public health administrative organizations
28 in Section 101185, and pursuant to Section 101315, in the
29 following manner:

30 (1) (A) For the 2003–04 fiscal year and subsequent fiscal years,
31 to the administrative bodies of each local health jurisdiction, a
32 basic allotment of one hundred thousand dollars (\$100,000), subject
33 to the availability of funds appropriated in the annual Budget Act
34 or another act.

35 (B) For the 2002–03 fiscal year, the basic allotment of one
36 hundred thousand dollars (\$100,000) shall be reduced by the
37 amount of federal funding allocated as part of a basic allotment
38 for the purposes of this article to local health jurisdictions in the
39 2001–02 fiscal year.

1 (2) (A) Except as provided in subdivision (c), after determining
2 the amount allowed for the basic allotment as provided in paragraph
3 (1), the balance of the annual appropriation for purposes of this
4 article, if any, shall be allotted on a per capita basis to the
5 administrative bodies of each local health jurisdiction in the
6 proportion that the population of that local health jurisdiction bears
7 to the population of all eligible local health jurisdictions of the
8 state.

9 (B) The population estimates used for the calculation of the per
10 capita allotment pursuant to subparagraph (A) shall be based on
11 the Department of Finance's E-1 Report, "City/County Population
12 Estimates with Annual Percentage Change," as of January 1 of the
13 previous year. However, if within a local health jurisdiction there
14 are one or more city health jurisdictions, the local health
15 jurisdiction shall subtract the population of the city or cities from
16 the local health jurisdiction total population for purposes of
17 calculating the per capita total.

18 (b) If the amounts appropriated are insufficient to fully fund the
19 allocations specified in subdivision (a), the department shall prorate
20 and adjust each local health jurisdiction's allocation so that the
21 total amount allocated equals the amount appropriated.

22 (c) For the 2002–03 fiscal year and subsequent fiscal years,
23 where the federally approved collaborative state-local plan
24 identifies an allocation method, other than the basic allotment and
25 per capita method described in subdivision (a), for specific funding
26 to a local public health jurisdiction, including, but not limited to,
27 funding laboratory training, chemical and nuclear terrorism
28 preparedness, smallpox preparedness, and information technology
29 approaches, that funding shall be paid to the administrative bodies
30 of those local health jurisdictions in accordance with the federally
31 approved collaborative state-local plan for bioterrorism
32 preparedness and other public health threats in the state.

33 (d) Funds appropriated pursuant to the annual Budget Act or
34 another act for allocation to local health jurisdictions pursuant to
35 this article shall be disbursed quarterly to local health jurisdictions
36 beginning July 1, 2002, using the following process:

37 (1) Each fiscal year, upon the submission of an application for
38 funding by the administrative body of a local health jurisdiction,
39 the department shall make the first quarterly payment to each
40 eligible local health jurisdiction. Initially, that application shall

1 include a plan and budget for the local program that is in
2 accordance with the department's plans and priorities for
3 bioterrorism preparedness and response, and other public health
4 threats and emergencies, and a certification by the chairperson of
5 the board of supervisors or the mayor of a city with a local health
6 department that the funds received pursuant to this article will not
7 be used to supplant other funding sources in violation of
8 subdivision (d) of Section 101315. In subsequent years, the
9 department shall develop a streamlined process for continuation
10 of funding that will address new federal requirements and will
11 assure the continuity of local plan activities.

12 (2) The department shall establish procedures and a format for
13 the submission of the local health jurisdiction's plan and budget.
14 The local health jurisdiction's plan shall be consistent with the
15 department's plans and priorities for bioterrorism preparedness
16 and response and other public health threats and emergencies in
17 accordance with requirements specified in the department's federal
18 grant award. Payments to local health jurisdictions beyond the first
19 quarter shall be contingent upon the approval of the department
20 of the local health jurisdiction's plan and the local health
21 jurisdiction's progress in implementing the provisions of the local
22 health jurisdiction's plan, as determined by the department.

23 (3) If a local health jurisdiction does not apply or submits a
24 noncompliant application for its allocation, those funds provided
25 under this article may be redistributed according to subdivision
26 (a) to the remaining local health jurisdictions.

27 (e) Funds shall be used for activities to improve and enhance
28 local health jurisdictions' preparedness for and response to
29 bioterrorism and other public health threats and emergencies, and
30 for other purposes, as determined by the department, that are
31 consistent with the purposes for which the funds were appropriated.

32 (f) A local health jurisdiction that receives funds pursuant to
33 this article shall deposit them in a special local public health
34 preparedness trust fund established solely for this purpose before
35 transferring or expending the funds for any of the uses allowed
36 pursuant to this article. The interest earned on moneys in the fund
37 shall accrue to the benefit of the fund and shall be expended for
38 the same purposes as other moneys in the fund.

39 (g) (1) A local health jurisdiction that receives funding pursuant
40 to this article shall submit reports that display cost data and the

1 activities funded by moneys deposited in its local public health
2 preparedness trust fund to the department on a regular basis in a
3 form and according to procedures prescribed by the department.

4 (2) The department, in consultation with local health
5 jurisdictions, shall develop required content for the reports required
6 under paragraph (1), which shall include, but shall not be limited
7 to, data and information needed to implement this article and to
8 satisfy federal reporting requirements. The chairperson of the board
9 of supervisors or the mayor of a city with a local health department
10 shall certify the accuracy of the reports and that the moneys
11 appropriated for the purposes of this article have not been used to
12 supplant other funding sources.

13 (3) It is the intent of the Legislature that the department shall
14 audit the cost reports every three years, commencing in January
15 2007, to determine compliance with federal requirements and
16 consistency with local health jurisdiction budgets, contingent upon
17 the availability of federal funds for this activity, and contingent
18 upon the continuation of federal funding for emergency
19 preparedness and bioterrorism preparedness. All cost-compliance
20 reports and audit exceptions or related analyses or reports issued
21 by the State Department of Public Health regarding the expenditure
22 of funding for emergency and bioterrorism preparedness by local
23 health jurisdictions shall be made available to the Legislature upon
24 request.

25 (h) The administrative body of a local health jurisdiction may
26 enter into a contract with the department and the department may
27 enter into a contract with that local health jurisdiction for the
28 department to administer all or a portion of the moneys allocated
29 to the local health jurisdiction pursuant to this article. The
30 department may use funds retained on behalf of a local health
31 jurisdiction pursuant to this subdivision solely for purposes of
32 administering the jurisdiction's bioterrorism preparedness activities.
33 The funds appropriated pursuant to this article and retained by the
34 department pursuant to this subdivision are available for
35 expenditure and encumbrance for purposes of support or local
36 assistance.

37 (i) The department may recoup from a local health jurisdiction
38 moneys allocated pursuant to this article that are unspent or that
39 are not expended for purposes specified in subdivision (d). The
40 department may also recoup funds expended by a local health

1 jurisdiction in violation of subdivision (d) of Section 101315. The
2 department may withhold quarterly payments of moneys to a local
3 health jurisdiction if the local health jurisdiction is not in
4 compliance with this article or the terms of that local health
5 jurisdiction's plan as approved by the department. Before any
6 funds are recouped or withheld from a local health jurisdiction,
7 the department shall meet with local health officials to discuss the
8 status of the unspent moneys or the disputed use of the funds, or
9 both.

10 (j) Notwithstanding any other provision of law, moneys made
11 available for bioterrorism preparedness pursuant to this article in
12 the 2001–02 fiscal year shall be available for expenditure and
13 encumbrance until June 30, 2003. Moneys made available for
14 bioterrorism preparedness pursuant to this article from July 1,
15 2002, to August 30, 2003, inclusive, shall be available for
16 expenditure and encumbrance until August 30, 2004. Moneys
17 made available in the 2003–04 Budget Act for bioterrorism
18 preparedness shall be available for expenditure and encumbrance
19 until August 30, 2005.

20 ~~SEC. 156.~~

21 *SEC. 155.* Section 111071 of the Health and Safety Code is
22 amended to read:

23 111071. (a) As a condition of licensure, each bottled water
24 plant, which has the same meaning as the definition in subdivision
25 (c) of Section 111070, shall annually prepare a bottled water report
26 and shall, upon request, make that report available to each
27 customer.

28 (b) The report shall be prepared in English, Spanish, and in the
29 appropriate languages for each non-English-speaking group other
30 than Spanish that exceeds 10 percent of the state's population.

31 (c) For purposes of complying with this section, when bottled
32 water comes from a municipal source, the relevant information
33 from the consumer confidence report or water quality report
34 prepared for that year by the public water system pursuant to
35 Section 116470, may be used.

36 (d) The bottled water report shall include, but not be limited to,
37 all of the following:

38 (1) The source of the bottled water, consistent with applicable
39 state and federal regulations.

1 (2) A brief and plainly worded definition of the terms “statement
2 of quality,” “maximum contaminant level,” “primary drinking
3 water standard,” and “public health goal.”

4 (3) A brief description of the treatment process.

5 (4) A reference to the United States Food and Drug
6 Administration Internet Web site that provides product recall
7 information.

8 (5) The bottled water company’s address and telephone number
9 that enables customers to obtain further information concerning
10 contaminants and potential health effects.

11 (6) Information on the levels of unregulated substances, if any,
12 for which water bottlers are required to monitor pursuant to state
13 or federal law or regulation.

14 (7) (A) The following statement:

15 “Drinking water, including bottled water, may reasonably
16 be expected to contain at least small amounts of some
17 contaminants. The presence of contaminants does not
18 necessarily indicate that water poses a health risk. More
19 information about contaminants and potential health effects
20 can be obtained by calling the United States Food and Drug
21 Administration, Food and Cosmetic Hotline
22 (1-888-723-3366).”

23 (B) If the telephone number for the United States Food and
24 Drug Administration, Food and Cosmetic Hotline changes, the
25 statement shall be updated to reflect the new telephone number.

26 (8) The following statement:

27 “Some persons may be more vulnerable to contaminants in
28 drinking water than the general population. Immuno-compromised persons, including, but not limited to,
29 persons with cancer who are undergoing chemotherapy,
30 persons who have undergone organ transplants, persons with
31 HIV/AIDS or other immune system disorders, some elderly
32 persons, and infants can be particularly at risk from infections.
33 These persons should seek advice about drinking water from
34 their health care providers. The United States Environmental
35 Protection Agency and the federal Centers for Disease Control
36 and Prevention guidelines on appropriate means to lessen the
37 risk of infection by cryptosporidium and other microbial
38 contaminants are available from the Safe Drinking Water
39 Hotline (1-800-426-4791).”
40

1 (9) The following statement:

2 “The sources of bottled water include rivers, lakes, streams,
3 ponds, reservoirs, springs, and wells. As water naturally travels
4 over the surface of the land or through the ground, it can pick
5 up naturally occurring substances as well as substances that
6 are present due to animal and human activity.

7 Substances that may be present in the source water include
8 any of the following:

9 (1) Inorganic substances, including, but not limited to, salts
10 and metals, that can be naturally occurring or result from
11 farming, urban stormwater runoff, industrial or domestic
12 wastewater discharges, or oil and gas production.

13 (2) Pesticides and herbicides that may come from a variety
14 of sources, including, but not limited to, agriculture, urban
15 stormwater runoff, and residential uses.

16 (3) Organic substances that are byproducts of industrial
17 processes and petroleum production and can also come from
18 gas stations, urban stormwater runoff, agricultural application,
19 and septic systems.

20 (4) Microbial organisms that may come from wildlife,
21 agricultural livestock operations, sewage treatment plants, and
22 septic systems.

23 (5) Substances with radioactive properties that can be
24 naturally occurring or be the result of oil and gas production
25 and mining activities.”

26 (10) The following statement:

27
28 “In order to ensure that bottled water is safe to drink, the
29 United States Food and Drug Administration and the State
30 Department of Public Health prescribe regulations that limit
31 the amount of certain contaminants in water provided by
32 bottled water companies.”

33 (11) (A) The following statement, if nitrate (NO_3) levels above
34 23 ppm but below 45 ppm (the maximum contaminant level for
35 nitrate (NO_3)) are detected:

36 “Nitrate in drinking water at levels above 45 mg/L is a health
37 risk for infants of less than six months of age. These nitrate
38 levels in drinking water can interfere with the capacity of the
39 infant’s blood to carry oxygen, resulting in a serious illness.
40 Symptoms include shortness of breath and blueness of the

1 skin. Nitrate levels above 45 mg/L may also affect the ability
2 of the blood to carry oxygen in other individuals, including,
3 but not limited to, pregnant women and those with certain
4 specific enzyme deficiencies. If you are caring for an infant,
5 or you are pregnant, you should ask advice from your health
6 care provider.”

7 (B) If the nitrate disclosure requirements for municipal water
8 suppliers are revised by the State Department of Public Health,
9 this statement shall be updated to reflect the revision.

10 (12) (A) The following statement, if arsenic levels above 5 ppb,
11 but below 10 ppb (the maximum contaminant level for arsenic),
12 are detected:

13 “Arsenic levels above 5 ppb and up to 10 ppb are present in
14 your drinking water. While your drinking water meets the
15 current EPA standard for arsenic, it does contain low levels
16 of arsenic. The standard balances the current understanding
17 of arsenic’s possible health effects against the costs of
18 removing arsenic from drinking water. The State Department
19 of Public Health continues to research the health effects of
20 low levels of arsenic, which is a mineral known to cause cancer
21 in humans at high concentrations and is linked to other health
22 effects, including, but not limited to, skin damage and
23 circulatory problems.”

24 (B) If the arsenic disclosure requirements for municipal water
25 suppliers are revised by the State Department of Public Health,
26 this statement shall be updated to reflect the revision.

27 (13) A full disclosure of any exemption or variance that has
28 been granted to the bottler by the State Department of Public
29 Health, including an explanation of reasons for each exemption
30 or variance and the date of the exemption or variance.

31 ~~SEC. 157.~~

32 *SEC. 156.* Section 116033 of the Health and Safety Code is
33 amended to read:

34 116033. Persons providing aquatic instruction, including, but
35 not limited to, swimming instruction, water safety instruction,
36 water contact activities, and competitive aquatic sports, at a public
37 swimming pool shall possess current certificates from an American
38 Red Cross or YMCA of the U.S.A. lifeguard training program, or
39 have equivalent qualifications, as determined by the department.
40 In addition, these persons shall be certified in standard first aid

1 and cardiopulmonary resuscitation (CPR). All these persons shall
2 meet these qualifications by January 1, 1991. Persons who only
3 disseminate written materials relating to water safety are not
4 persons providing aquatic instruction within the meaning of this
5 section.

6 The requirements of this section shall be waived under either of
7 the following circumstances: (a) when one or more aquatic
8 instructors possessing the current certificates from an American
9 Red Cross or YMCA of the U.S.A. lifeguard training program, or
10 the equivalent, are in attendance continuously during periods of
11 aquatic instruction, or (b) when one or more lifeguards meeting
12 the requirements of Section 116028 are in attendance continuously
13 during periods of aquatic instruction.

14 ~~SEC. 158.~~

15 *SEC. 157.* Section 121530 of the Health and Safety Code is
16 amended to read:

17 121530. The examination shall consist of either an approved
18 intradermal tuberculin test or any other test for tuberculosis
19 infection that has been recommended by the CDC and licensed by
20 the FDA, that, if positive, shall be followed by an X-ray of the
21 lungs.

22 ~~SEC. 159.~~

23 *SEC. 158.* Section 122354 of the Health and Safety Code is
24 amended to read:

25 122354. (a) The pet store operator or at least one of his or her
26 employees shall be present in the store at least once daily,
27 regardless of whether the store is open, for care and maintenance
28 of the animals in the pet store.

29 (b) A pet store operator shall comply with the following animal
30 care requirements:

31 (1) House only compatible animals in the same enclosure.

32 (2) Observe each animal at regular intervals, at least once a day,
33 in order to recognize and evaluate general symptoms of sickness,
34 injury, or abnormal behavior.

35 (3) Take reasonable measures to house intact mammals that
36 have reached sexual maturity in a manner to prevent unplanned
37 reproduction.

38 (4) (A) Maintain and abide by written animal husbandry
39 procedures that address animal care, management and safe
40 handling, disease prevention and control, routine care, preventive

1 care, emergency care, veterinary treatment, euthanasia, and disaster
2 planning, evacuation, and recovery that is applicable to the location
3 of the pet store. These procedures shall be reviewed with employees
4 who provide animal care and shall be present in writing, either
5 electronically or physically, in the store and made available to all
6 store employees.

7 (B) Sections 122356 and 122358 do not apply to subparagraph
8 (A) if other local, state, or federal laws apply to those procedures.

9 (5) (A) If there is a determination that an animal may need to
10 be euthanized, ensure that veterinary treatment is provided without
11 delay.

12 (B) Notwithstanding subparagraph (A), an animal intended as
13 food for another animal may be destroyed using a method or
14 methods of euthanasia that are humane, involve painless loss of
15 consciousness and immediate death as specified in Appendix 2 of
16 the American Veterinary Medical Association (AVMA) 2000
17 Report of the AVMA Panel on Euthanasia, and as authorized for
18 the species in the documented program prescribed in paragraph
19 (7).

20 (C) Each employee who performs euthanasia shall receive
21 adequate training in the method or methods used and proof of
22 successful completion of that training shall be documented in
23 writing and retained by the pet store. All training records shall be
24 maintained by the pet store for two years, and shall be made
25 available, upon request, to appropriate law enforcement officers
26 exercising authority pursuant to Section 122356.

27 (D) Subparagraphs (A) to (C), inclusive, shall be implemented
28 in a manner consistent with California law and in accordance with
29 Chapter 11 (commencing with Section 4800) of Division 2 of the
30 Business and Professions Code.

31 (6) Isolate and not offer for sale those animals that have or are
32 suspected of having a contagious condition. This paragraph shall
33 not apply to those animals that are effectively isolated by their
34 primary enclosure, including, but not limited to, fish, provided that
35 a sign is posted on the enclosure that indicates that these animals
36 are not for sale, or otherwise marked in a manner to prevent their
37 sale to customers during their treatment for the contagious
38 condition.

39 (7) Have a documented program of routine care, preventive
40 care, and emergency care, disease control and prevention, *and*

1 veterinary treatment and euthanasia, as outlined in paragraph (5),
2 that is established and maintained by the pet store in consultation
3 with a licensed veterinarian employed by the pet store or a
4 California-licensed veterinarian, to ensure adherence to the program
5 with respect to each animal. The program shall also include a
6 documented onsite visit to the pet store premises by a
7 California-licensed veterinarian at least once a year.

8 (8) Ensure that each diseased, ill, or injured animal is evaluated
9 and treated without delay. If necessary for the humane care and
10 treatment of the animal, the animal shall be provided with
11 veterinary treatment without delay.

12 (9) In the event of a natural disaster, an emergency evacuation,
13 or other similar occurrence, the humane care and treatment of each
14 animal is provided for, as required by this chapter, to the extent
15 access to the animal is reasonably available.

16 (c) Subdivisions (a) and (b) shall be implemented to the extent
17 consistent with California law.

18 ~~SEC. 160.~~

19 *SEC. 159.* Section 124900 of the Health and Safety Code is
20 amended to read:

21 124900. (a) (1) The State Department of Health Care Services
22 shall select primary care clinics that are licensed under
23 subparagraph (A) or (B) of paragraph (1) of subdivision (a) of
24 Section 1204, or are exempt from licensure under subdivision (c)
25 of Section 1206, to be reimbursed for delivering medical services,
26 including preventive health care, and smoking prevention and
27 cessation health education, to program beneficiaries.

28 (2) In order to be eligible to receive funds under this article a
29 clinic shall meet all of the following conditions, at a minimum:

30 (A) Provide medical diagnosis and treatment.

31 (B) Provide medical support services of patients in all stages of
32 illness.

33 (C) Provide communication of information about diagnosis,
34 treatment, prevention, and prognosis.

35 (D) Provide maintenance of patients with chronic illness.

36 (E) Provide prevention of disability and disease through
37 detection, education, persuasion, and preventive treatment.

38 (F) Meet one or both of the following conditions:

1 (i) Be located in an area or a facility federally designated as a
2 health professional shortage area, medically underserved area, or
3 medically underserved population.

4 (ii) Be a clinic that is able to demonstrate that at least 50 percent
5 of the patients served are persons with incomes at or below 200
6 percent of the federal poverty level.

7 (3) Notwithstanding the requirements of paragraph (2), all clinics
8 that received funds under this article in the 1997–98 fiscal year
9 shall continue to be eligible to receive funds under this article.

10 (b) As a part of the award process for funding pursuant to this
11 article, the department shall take into account the availability of
12 primary care services in the various geographic areas of the state.
13 The department shall determine which areas within the state have
14 populations that have clear and compelling difficulty in obtaining
15 access to primary care. The department shall consider proposals
16 from new and existing eligible providers to extend clinic services
17 to these populations.

18 (c) A primary care clinic applying for funds pursuant to this
19 article shall demonstrate that the funds shall be used to expand
20 medical services, including preventive health care, and smoking
21 prevention and cessation health education, for program
22 beneficiaries above the level of services provided in the 1988
23 calendar year, or in the year prior to the first year a clinic receives
24 funds under this article if the clinic did not receive funds in the
25 1989 calendar year.

26 (d) (1) The department, in consultation with clinics funded
27 under this article, shall develop a formula for allocation of funds
28 available. It is the intent of the Legislature that the funds allocated
29 pursuant to this article promote stability for those clinics
30 participating in programs under this article as part of the state’s
31 health care safety net and at the same time be distributed in a
32 manner that best promotes access to health care to uninsured
33 populations.

34 (2) The formula shall be based on both of the following:

35 (A) A hold harmless for clinics funded in the 1997–98 fiscal
36 year to continue to reimburse them for some portion of their
37 uncompensated care.

38 (B) Demonstrated unmet need by both new and existing clinics,
39 as reflected in their levels of uncompensated care reported to the
40 department. For purposes of this article, “uncompensated care”

1 means clinic patient visits for persons with incomes at or below
2 200 percent of the federal poverty level for which there is no
3 encounter-based third-party reimbursement which includes, but is
4 not limited to, unpaid expanded access to primary care claims.

5 (3) The department shall allocate available funds, for a
6 three-year period, as follows:

7 (A) Clinics that received funding in the prior fiscal year shall
8 receive 90 percent of their prior fiscal year allocation, subject to
9 available funds, provided that the funding award is substantiated
10 by the clinics' reported levels of uncompensated care.

11 (B) The remaining funds beyond 90 percent shall be awarded
12 to new and existing applicants based on the clinics' reported levels
13 of uncompensated care as verified by the department according to
14 subparagraph (A) of paragraph (4). The department shall seek
15 input from stakeholders to discuss adjustments to award levels that
16 the department deems reasonable, such as including base amounts
17 for new applicant clinics.

18 (C) New applicants shall be awarded funds pursuant to this
19 subdivision if they meet the minimum requirements for funding
20 under this article based on the clinics' reported levels of
21 uncompensated care as verified by the department according to
22 subparagraph (A) of paragraph (4). New applicants include
23 applicants for new site expansions by existing applicants.

24 (4) In assessing reported levels of uncompensated care, the
25 department shall utilize the data available from the Office of
26 Statewide Health Planning and Development's (OSHPD's)
27 completed analysis of the "Annual Report of Primary Care Clinics"
28 for the prior fiscal year, or if more recent data is available, then
29 the most recent data. If this data is unavailable for an existing
30 applicant to assess reported levels of uncompensated care, the
31 existing applicant shall receive an allocation pursuant to
32 subparagraph (A) of paragraph (3).

33 (A) The department shall utilize the most recent data available
34 from OSHPD's completed analysis of the "Annual Report of
35 Primary Care Clinics" for the prior fiscal year, or if more recent
36 data is available, then the most recent data.

37 (B) If the funds allocated to the program are less than the prior
38 year, the department shall allocate available funds to existing
39 program providers only.

1 (5) The department shall establish a base funding level, subject
2 to available funds, of no less than thirty-five thousand dollars
3 (\$35,000) for frontier clinics and Native American
4 reservation-based clinics. For purposes of this article, “frontier
5 clinics” means clinics located in a medical services study area with
6 a population of fewer than 11 persons per square mile.

7 (6) The department shall develop, in consultation with clinics
8 funded pursuant to this article, a formula for reallocation of unused
9 funds to other participating clinics to reimburse for uncompensated
10 care. The department shall allocate the unused funds remaining
11 on October 30, for the prior fiscal year to other participating clinics
12 to reimburse for uncompensated care.

13 (e) In applying for funds, eligible clinics shall submit a single
14 application per clinic corporation. Applicants with multiple sites
15 shall apply for all eligible clinics, and shall report to the department
16 the allocation of funds among their corporate sites in the prior
17 year. A corporation may claim reimbursement only for services
18 provided at a program-eligible clinic site identified in the corporate
19 entity’s application for funds, and approved for funding by the
20 department. A corporation may increase or decrease the number
21 of its program-eligible clinic sites on an annual basis, at the time
22 of the annual application update for the subsequent fiscal years of
23 any multiple-year application period.

24 (f) Grant allocations pursuant to this article shall be based on
25 the formula developed by the department, notwithstanding a merger
26 of one of more licensed primary care clinics participating in the
27 program.

28 (g) A clinic that is eligible for the program in every other
29 respect, but that provides dental services only, rather than the full
30 range of primary care medical services, shall only be eligible to
31 receive funds under this article on an exception basis. A dental-only
32 provider’s application shall include a memorandum of
33 understanding (MOU) with a primary care clinic funded under this
34 article. The MOU shall include medical protocols for making
35 referrals by the primary care clinic to the dental clinic and from
36 the dental clinic to the primary care clinic, and ensure that case
37 management services are provided and that the patient is being
38 provided comprehensive primary care as described in subdivision
39 (a).

1 (h) (1) For purposes of this article, an outpatient visit shall
2 include diagnosis and medical treatment services, including the
3 associated pharmacy, X-ray, and laboratory services, and
4 prevention health and case management services that are needed
5 as a result of the outpatient visit. For a new patient, an outpatient
6 visit shall also include a health assessment encompassing an
7 assessment of smoking behavior and the patient’s need for
8 appropriate health education specific to related tobacco use and
9 exposure.

10 (2) “Case management” includes, for this purpose, the
11 management of all physician services, both primary and specialty,
12 and arrangements for hospitalization, postdischarge care, and
13 followup care.

14 (i) (1) Payment shall be on a per-visit basis at a rate that is
15 determined by the department to be appropriate for an outpatient
16 visit as defined in this section, and shall be not less than
17 seventy-one dollars and fifty cents (\$71.50).

18 (2) In developing a statewide uniform rate for an outpatient visit
19 as defined in this article, the department shall consider existing
20 rates of payments for comparable outpatient visits. The department
21 shall review the outpatient visit rate on an annual basis.

22 (j) Not later than June 1 of each year, the department shall adopt
23 and provide each licensed primary care clinic with a schedule for
24 programs under this article, including the date for notification of
25 availability of funds, the deadline for the submission of a completed
26 application, and an anticipated contract award date for successful
27 applicants.

28 (k) In administering the program created pursuant to this article,
29 the department shall utilize the Medi-Cal program statutes and
30 regulations pertaining to program participation standards, medical
31 and administrative recordkeeping, the ability of the department to
32 monitor and audit clinic records pertaining to program services
33 rendered to program beneficiaries and take recoupments or
34 recovery actions consistent with monitoring and audit findings,
35 and the provider’s appeal rights. A primary care clinic applying
36 for program participation shall certify that it will abide by these
37 statutes and regulations and other program requirements set forth
38 in this article.

1 ~~SEC. 161.~~

2 *SEC. 160.* Section 124991 of the Health and Safety Code is
3 amended to read:

4 124991. (a) (1) The State Department of Public Health shall
5 provide any umbilical cord blood samples it receives pursuant to
6 Section 123371 to the Birth Defects Monitoring Program,
7 established pursuant to Chapter 1 (commencing with Section
8 103825) of Part 2 of Division 102, for storage and research. In
9 administering this section the department shall ensure that the Birth
10 Defects Monitoring Program meets at least one of the following
11 conditions:

12 (A) The fees paid by researchers, investigators, and health care
13 services providers pursuant to subdivision (c) shall be used to cover
14 the cost of collecting and storing blood, including umbilical cord
15 blood.

16 (B) The department receives confirmation that an investigator,
17 researcher, or health care provider has requested umbilical cord
18 blood samples for research or has requested cord blood samples
19 to be included within a request for pregnancy and newborn blood
20 samples through the program.

21 (C) The department receives federal grant moneys to pay for
22 initial startup costs for the collection and storage of umbilical cord
23 blood samples.

24 (2) The department may limit the number of units the program
25 collects each year.

26 (b) (1) All information relating to umbilical cord blood samples
27 collected and utilized by the Birth Defects Monitoring Program
28 shall be confidential, and shall be used solely for the purposes of
29 the program. Access to confidential information shall be limited
30 to authorized persons who agree, in writing, to maintain the
31 confidentiality of that information.

32 (2) The department shall maintain an accurate record of all
33 persons who are given confidential information pursuant to this
34 section, and disclosure of confidential information shall be made
35 only upon written agreement that the information will be kept
36 confidential, used for its approved purpose, and not be further
37 disclosed.

38 (3) A person who, in violation of a written agreement to maintain
39 confidentiality, discloses information provided pursuant to this
40 section, or who uses information provided pursuant to this section

1 in a manner other than as approved pursuant to this section may
2 be denied further access to confidential information maintained
3 by the department, and shall be subject to a civil penalty not
4 exceeding one thousand dollars (\$1,000). The penalty provided in
5 this section does not limit or otherwise restrict a remedy,
6 provisional or otherwise, provided by law for the benefit of the
7 department or a person covered by this section.

8 (c) In order to implement this program, the department shall
9 establish fees of an amount that shall not exceed the costs of
10 administering the program, which the department shall collect
11 from researchers, investigators, and health care providers who
12 have been approved by the department and who seek to use the
13 following types of blood samples, collected by the Birth Defects
14 Monitoring Program, for research:

- 15 (1) Umbilical cord blood.
- 16 (2) Pregnancy blood.
- 17 (3) Newborn blood.

18 (d) Fees collected pursuant to subdivision (c) shall be deposited
19 into the Birth Defects Monitoring Program Fund created pursuant
20 to paragraph (7) of subdivision (b) of Section 124977. Moneys
21 deposited into the fund pursuant to this section may be used by
22 the department, upon appropriation by the Legislature, for the
23 purposes specified in subdivision (e).

24 (e) Moneys in the fund shall be used for the costs related to data
25 management, including data linkage and entry, and umbilical cord
26 blood storage, retrieval, processing, inventory, and shipping.

27 (f) The department shall adopt rules and regulations pursuant
28 to existing requirements in the Birth Defects Monitoring Program.

29 (g) The department, health care providers, and local health
30 departments shall maintain the confidentiality of patient
31 information in accordance with existing law and in the same
32 manner as other medical record information with patient
33 identification that they possess, and shall use the information only
34 for the following purposes:

- 35 (1) Research to identify risk factors for children's and women's
36 diseases.
- 37 (2) Research to develop and evaluate screening tests.
- 38 (3) Research to develop and evaluate prevention strategies.
- 39 (4) Research to develop and evaluate treatments.

1 (h) (1) For purposes of ensuring the security of a donor's
2 personal information, before any umbilical cord blood samples
3 are released pursuant to this section for research purposes, the
4 State Committee for the Protection of Human Subjects (CPHS)
5 shall determine if all of the following criteria have been met:

6 (A) The Birth Defects Monitoring Program contractors or other
7 entities approved by the department have provided a plan sufficient
8 to protect personal information from improper use and disclosures,
9 including sufficient administrative, physical, and technical
10 safeguards to protect personal information from reasonable
11 anticipated threats to the security or confidentiality of the
12 information.

13 (B) The Birth Defects Monitoring Program contractors or other
14 entities approved by the department have provided a sufficient
15 plan to destroy or return all personal information as soon as it is
16 no longer needed for the research activity, unless the program
17 contractors or other entities approved by the department have
18 demonstrated an ongoing need for the personal information for
19 the research activity and have provided a long-term plan sufficient
20 to protect the confidentiality of that information.

21 (C) The Birth Defects Monitoring Program contractors or other
22 entities approved by the department have provided sufficient
23 written assurances that the personal information will not be reused
24 or disclosed to a person or entity, or used in a manner not approved
25 in the research protocol, except as required by law or for authorized
26 oversight of the research activity.

27 (2) As part of its review and approval of the research activity
28 for the purpose of protecting personal information held in agency
29 databases, CPHS shall accomplish at least all of the following:

30 (A) Determine whether the requested personal information is
31 needed to conduct the research.

32 (B) Permit access to personal information only if it is needed
33 for the research activity.

34 (C) Permit access only to the minimum personal information
35 necessary for the research activity.

36 (D) Require the assignment of unique subject codes that are not
37 derived from personal information in lieu of social security
38 numbers if the research can be conducted without social security
39 numbers.

1 (E) If feasible, and if cost, time, and technical expertise permit,
2 require the agency to conduct a portion of the data processing for
3 the researcher to minimize the release of personal information.

4 (i) In addition to the fees described in subdivision (c), the
5 department may bill a researcher for the costs associated with the
6 department’s process of protecting personal information, including,
7 but not limited to, the department’s costs for conducting a portion
8 of the data processing for the researcher, removing personal
9 information, encrypting or otherwise securing personal information,
10 or assigning subject codes.

11 (j) This section does not prohibit the department from using its
12 existing authority to enter into written agreements to enable other
13 institutional review boards to approve research activities, projects,
14 or classes of projects for the department, provided that the data
15 security requirements set forth in this section are satisfied.

16 ~~SEC. 162.~~

17 *SEC. 161.* Section 127400 of the Health and Safety Code is
18 amended to read:

19 127400. As used in this article, the following terms have the
20 following meanings:

21 (a) “Allowance for financially qualified patient” means, with
22 respect to services rendered to a financially qualified patient, an
23 allowance that is applied after the hospital’s charges are imposed
24 on the patient, due to the patient’s determined financial inability
25 to pay the charges.

26 (b) “Federal poverty level” means the poverty guidelines updated
27 periodically in the Federal Register by the United States
28 Department of Health and Human Services under authority of
29 subsection (2) of Section 9902 of Title 42 of the United States
30 Code.

31 (c) “Financially qualified patient” means a patient who is both
32 of the following:

33 (1) A patient who is a self-pay patient, as defined in subdivision
34 (f) or a patient with high medical costs, as defined in subdivision
35 (g).

36 (2) A patient who has a family income that does not exceed 350
37 percent of the federal poverty level.

38 (d) “Hospital” means a facility that is required to be licensed
39 under subdivision (a), (b), or (f) of Section 1250, except a facility

1 operated by the State Department of Mental Health or the
2 Department of Corrections and Rehabilitation.

3 (e) “Office” means the Office of Statewide Health Planning and
4 Development.

5 (f) “Self-pay patient” means a patient who does not have
6 third-party coverage from a health insurer, health care service plan,
7 Medicare, or Medicaid, and whose injury is not a compensable
8 injury for purposes of workers’ compensation, automobile
9 insurance, or other insurance as determined and documented by
10 the hospital. Self-pay patients may include charity care patients.

11 (g) “A patient with high medical costs” means a person whose
12 family income does not exceed 350 percent of the federal poverty
13 level, as defined in subdivision (b), if that individual does not
14 receive a discounted rate from the hospital as a result of his or her
15 third-party coverage. For these purposes, “high medical costs”
16 means any of the following:

17 (1) Annual out-of-pocket costs incurred by the individual at the
18 hospital that exceed 10 percent of the patient’s family income in
19 the prior 12 months.

20 (2) Annual out-of-pocket expenses that exceed 10 percent of
21 the patient’s family income, if the patient provides documentation
22 of the patient’s medical expenses paid by the patient or the patient’s
23 family in the prior 12 months.

24 (3) A lower level determined by the hospital in accordance with
25 the hospital’s charity care policy.

26 (h) “Patient’s family” means the following:

27 (1) For persons 18 years of age and older, spouse, domestic
28 partner, as defined in Section 297 of the Family Code, and
29 dependent children under 21 years of age, whether living at home
30 or not.

31 (2) For persons under 18 years of age, parent, caretaker relatives,
32 and other children under 21 years of age of the parent or caretaker
33 relative.

34 ~~SEC. 163.~~

35 *SEC. 162.* Section 127405 of the Health and Safety Code is
36 amended to read:

37 127405. (a) (1) Each hospital shall maintain an understandable
38 written policy regarding discount payments for financially qualified
39 patients as well as an understandable written charity care policy.
40 Uninsured patients or patients with high medical costs who are at

1 or below 350 percent of the federal poverty level, as defined in
2 subdivision (b) of Section 127400, shall be eligible to apply for
3 participation under a hospital's charity care policy or discount
4 payment policy. Notwithstanding any other provision of this article,
5 a hospital may choose to grant eligibility for its discount payment
6 policy or charity care policies to patients with incomes over 350
7 percent of the federal poverty level. Both the charity care policy
8 and the discount payment policy shall state the process used by
9 the hospital to determine whether a patient is eligible for charity
10 care or discounted payment. In the event of a dispute, a patient
11 may seek review from the business manager, chief financial officer,
12 or other appropriate manager as designated in the charity care
13 policy and the discount payment policy.

14 (2) Rural hospitals, as defined in Section 124840, may establish
15 eligibility levels for financial assistance and charity care at less
16 than 350 percent of the federal poverty level as appropriate to
17 maintain their financial and operational integrity.

18 (b) A hospital's discount payment policy shall clearly state
19 eligibility criteria based upon income consistent with the
20 application of the federal poverty level. The discount payment
21 policy shall also include an extended payment plan to allow
22 payment of the discounted price over time. The policy shall provide
23 that the hospital and the patient may negotiate the terms of the
24 payment plan.

25 (c) The charity care policy shall state clearly the eligibility
26 criteria for charity care. In determining eligibility under its charity
27 care policy, a hospital may consider income and monetary assets
28 of the patient. For purposes of this determination, monetary assets
29 shall not include retirement or deferred compensation plans
30 qualified under the Internal Revenue Code, or nonqualified deferred
31 compensation plans. Furthermore, the first ten thousand dollars
32 (\$10,000) of a patient's monetary assets shall not be counted in
33 determining eligibility, nor shall 50 percent of a patient's monetary
34 assets over the first ten thousand dollars (\$10,000) be counted in
35 determining eligibility.

36 (d) A hospital shall limit expected payment for services it
37 provides to a patient at or below 350 percent of the federal poverty
38 level, as defined in subdivision (b) of Section 124700, eligible
39 under its discount payment policy to the amount of payment the
40 hospital would expect, in good faith, to receive for providing

1 services from Medicare, Medi-Cal, Healthy Families, or another
2 government-sponsored health program of health benefits in which
3 the hospital participates, whichever is greater. If the hospital
4 provides a service for which there is no established payment by
5 Medicare or any other government-sponsored program of health
6 benefits in which the hospital participates, the hospital shall
7 establish an appropriate discounted payment.

8 (e) A patient, or patient's legal representative, who requests a
9 discounted payment, charity care, or other assistance in meeting
10 his or her financial obligation to the hospital shall make every
11 reasonable effort to provide the hospital with documentation of
12 income and health benefits coverage. If the person requests charity
13 care or a discounted payment and fails to provide information that
14 is reasonable and necessary for the hospital to make a
15 determination, the hospital may consider that failure in making its
16 determination.

17 (1) For ~~the~~ purposes of determining eligibility for discounted
18 payment, documentation of income shall be limited to recent pay
19 stubs or income tax returns.

20 (2) For ~~the~~ purposes of determining eligibility for charity care,
21 documentation of assets may include information on all monetary
22 assets, but shall not include statements on retirement or deferred
23 compensation plans qualified under the Internal Revenue Code,
24 or nonqualified deferred compensation plans. A hospital may
25 require waivers or releases from the patient or the patient's family,
26 authorizing the hospital to obtain account information from
27 financial or commercial institutions, or other entities that hold or
28 maintain the monetary assets, to verify their value.

29 (3) Information obtained pursuant to paragraph (1) or (2) shall
30 not be used for collections activities. This paragraph does not
31 prohibit the use of information obtained by the hospital, collection
32 agency, or assignee independently of the eligibility process for
33 charity care or discounted payment.

34 (4) Eligibility for discounted payments or charity care may be
35 determined at any time the hospital is in receipt of information
36 specified in paragraph (1) or (2), respectively.

37 ~~SEC. 164.~~

38 *SEC. 163.* Section 128735 of the Health and Safety Code is
39 amended to read:

1 128735. An organization that operates, conducts, owns, or
2 maintains a health facility, and the officers thereof, shall make and
3 file with the office, at the times as the office shall require, all of
4 the following reports on forms specified by the office that shall be
5 in accord, if applicable, with the systems of accounting and uniform
6 reporting required by this part, except that the reports required
7 pursuant to subdivision (g) shall be limited to hospitals:

8 (a) A balance sheet detailing the assets, liabilities, and net worth
9 of the health facility at the end of its fiscal year.

10 (b) A statement of income, expenses, and operating surplus or
11 deficit for the annual fiscal period, and a statement of ancillary
12 utilization and patient census.

13 (c) A statement detailing patient revenue by payer, including,
14 but not limited to, Medicare, Medi-Cal, and other payers, and
15 revenue center, except that hospitals authorized to report as a group
16 pursuant to subdivision (d) of Section 128760 are not required to
17 report revenue by revenue center.

18 (d) A statement of cashflows, including, but not limited to,
19 ongoing and new capital expenditures and depreciation.

20 (e) A statement reporting the information required in
21 subdivisions (a), (b), (c), and (d) for each separately licensed health
22 facility operated, conducted, or maintained by the reporting
23 organization, except those hospitals authorized to report as a group
24 pursuant to subdivision (d) of Section 128760.

25 (f) Data reporting requirements established by the office shall
26 be consistent with national standards, as applicable.

27 (g) A Hospital Discharge Abstract Data Record that includes
28 all of the following:

29 (1) Date of birth.

30 (2) Sex.

31 (3) Race.

32 (4) ZIP Code.

33 (5) Principal language spoken.

34 (6) Patient social security number, if it is contained in the
35 patient's medical record.

36 (7) Prehospital care and resuscitation, if any, including all of
37 the following:

38 (A) "Do not resuscitate" (DNR) order at admission.

39 (B) "Do not resuscitate" (DNR) order after admission.

40 (8) Admission date.

- 1 (9) Source of admission.
- 2 (10) Type of admission.
- 3 (11) Discharge date.
- 4 (12) Principal diagnosis and whether the condition was present
- 5 at admission.
- 6 (13) Other diagnoses and whether the conditions were present
- 7 at admission.
- 8 (14) External cause of injury.
- 9 (15) Principal procedure and date.
- 10 (16) Other procedures and dates.
- 11 (17) Total charges.
- 12 (18) Disposition of patient.
- 13 (19) Expected source of payment.
- 14 (20) Elements added pursuant to Section 128738.
- 15 (h) It is the intent of the Legislature that the patient's rights of
- 16 confidentiality shall not be violated in any manner. Patient social
- 17 security numbers and other data elements that the office believes
- 18 could be used to determine the identity of an individual patient
- 19 shall be exempt from the disclosure requirements of the California
- 20 Public Records Act (Chapter 3.5 (commencing with Section 6250)
- 21 of Division 7 of Title 1 of the Government Code).
- 22 (i) A person reporting data pursuant to this section shall not be
- 23 liable for damages in an action based on the use or misuse of
- 24 patient-identifiable data that has been mailed or otherwise
- 25 transmitted to the office pursuant to the requirements of subdivision
- 26 (g).
- 27 (j) A hospital shall use coding from the International
- 28 Classification of Diseases in reporting diagnoses and procedures.
- 29 ~~SEC. 165.~~
- 30 *SEC. 164.* Section 131540 of the Health and Safety Code is
- 31 amended to read:
- 32 131540. (a) (1) The cost of the health care coverage provided
- 33 through the program shall be paid through a combination of
- 34 contributions paid by the small business, premiums paid by
- 35 participating employees, and county, federal, state, or private sector
- 36 funding made available for this purpose.
- 37 (2) The local initiative may determine the amount of the
- 38 employer contribution for each participating eligible employee,
- 39 which shall not exceed one hundred fifty dollars (\$150) per month,
- 40 and the amount of the employee premium, which shall not exceed

1 seventy-five dollars (\$75) per month. The local initiative may
2 adjust employer contribution and employee premium levels after
3 the first year if necessary for changes in health care costs.

4 (3) The local initiative may structure the required employee
5 premium amounts according to a schedule that takes into account
6 the individual employee’s age or income level, or both, in a manner
7 similar, but not necessarily identical, to that described in Section
8 12693.43 of the Insurance Code, pertaining to the Healthy Families
9 Program.

10 (4) The local initiative shall establish copayment levels and
11 amounts in a manner substantially similar to that described in
12 Section 12693.615 of the Insurance Code, pertaining to the Healthy
13 Families Program.

14 (5) For purposes of the program, “applicable rate charged for a
15 covered employee” in Section 1366.26 means the total premium
16 amount paid to the health plan on behalf of an employee, including
17 amounts paid by the small business on behalf of the employee, the
18 premium paid by the employee, and any county, federal, state, or
19 private sector funding, which funding shall include the value of
20 the discounted rates negotiated pursuant to subdivision (b), as
21 apportioned to the employee. The program shall submit to the
22 Department of Managed Health Care the procedures the local
23 initiative will use for purposes of establishing the rates to be paid
24 by a person eligible for continuation coverage under Section
25 1366.26, and the department shall only approve those procedures
26 if it determines that they are consistent with the requirements of
27 the Cal-COBRA program.

28 (b) In order to enhance the affordability of coverage offered
29 through the program to eligible small businesses and employees,
30 the county and the local initiative shall negotiate discounted rates
31 for services provided to participants in the program by providers
32 operated by the county or by providers with whom, or with which,
33 the county has contracted to provide health care services.

34 ~~SEC. 166.~~

35 *SEC. 165.* Section 739.3 of the Insurance Code is amended to
36 read:

37 739.3. (a) “Company Action Level Event” means any of the
38 following events:

39 (1) The filing of an RBC Report by an insurer that indicates any
40 of the following:

1 (A) The insurer's Total Adjusted Capital is greater than or equal
2 to its Regulatory Action Level RBC but less than its Company
3 Action Level RBC.

4 (B) If a life or health insurer, the insurer has Total Adjusted
5 Capital that is greater than or equal to its Company Action Level
6 RBC but less than the product of its Authorized Control Level
7 RBC and 2.5, and has a negative trend.

8 (C) If a property and casualty insurer, the insurer has Total
9 Adjusted Capital that is greater than or equal to its Company Action
10 Level RBC but less than the product of its Authorized Control
11 Level RBC and 3.0, and triggers the trend test determined in
12 accordance with the trend test calculation included in the Property
13 and Casualty RBC instructions.

14 (2) The notification by the commissioner to the insurer of an
15 Adjusted RBC Report that indicates the event in subparagraph (A)
16 or (B) of paragraph (1), provided that the insurer does not challenge
17 the Adjusted RBC Report under Section 739.7.

18 (3) If the insurer challenges an Adjusted RBC Report that
19 indicates the event in subparagraph (A) or (B) of paragraph (1)
20 under Section 739.7, the notification by the commissioner to the
21 insurer that the commissioner has, after a hearing, rejected the
22 insurer's challenge.

23 (b) In the event of a Company Action Level Event, the insurer
24 shall prepare and submit to the commissioner a comprehensive
25 financial plan, which shall do all of the following:

26 (1) Identify the conditions in the insurer that contribute to the
27 Company Action Level Event.

28 (2) Contain proposals of corrective actions that the insurer
29 intends to take and would be expected to result in the elimination
30 of the Company Action Level Event.

31 (3) Provide projections of the insurer's financial results in the
32 current year and at least the four succeeding years, both in the
33 absence of proposed corrective actions and giving effect to the
34 proposed corrective actions, including projections of statutory
35 operating income, net income, capital, or surplus, or a combination.
36 The projections for both new and renewal business may include
37 separate projections for each major line of business and separately
38 identify each significant income, expense, and benefit component.

39 (4) Identify the key assumptions impacting the insurer's
40 projections and the sensitivity of the projections to the assumptions.

1 (5) Identify the quality of, and problems associated with, the
2 insurer's business, including, but not limited to, its assets,
3 anticipated business growth and associated surplus strain,
4 extraordinary exposure to risk, mix of business, and use of
5 reinsurance in each case, if any.

6 (c) The RBC Plan shall be submitted as follows:

7 (1) Within 45 days of the Company Action Level Event.

8 (2) If the insurer challenges an Adjusted RBC Report pursuant
9 to Section 739.7, within 45 days after notification to the insurer
10 that the commissioner has, after a hearing, rejected the insurer's
11 challenge.

12 (d) Within 60 days after the submission by an insurer of an RBC
13 Plan to the commissioner, the commissioner shall notify the insurer
14 whether the RBC Plan shall be implemented or is, in the judgment
15 of the commissioner, unsatisfactory. If the commissioner
16 determines that the RBC Plan is unsatisfactory, the notification to
17 the insurer shall set forth the reasons for the determination, and
18 may set forth proposed revisions that will render the RBC Plan
19 satisfactory, in the judgment of the commissioner. Upon
20 notification from the commissioner, the insurer shall prepare a
21 Revised RBC Plan, which may incorporate by reference revisions
22 proposed by the commissioner, and shall submit the Revised RBC
23 Plan to the commissioner as follows:

24 (1) Within 45 days after the notification from the commissioner.

25 (2) If the insurer challenges the notification from the
26 commissioner under Section 739.7, within 45 days after a
27 notification to the insurer that the commissioner has, after a
28 hearing, rejected the insurer's challenge.

29 (e) In the event of a notification by the commissioner to an
30 insurer that the insurer's RBC Plan or Revised RBC Plan is
31 unsatisfactory, the commissioner may, at his or her discretion,
32 subject to the insurer's right to a hearing under Section 739.7,
33 specify in the notification that the notification constitutes a
34 Regulatory Action Level Event.

35 (f) Every domestic insurer that files an RBC Plan or Revised
36 RBC Plan with the commissioner shall file a copy of the RBC Plan
37 or Revised RBC Plan with the insurance commissioner in any state
38 in which the insurer is authorized to do business if both of the
39 following apply:

1 (1) That state has an RBC provision substantially similar to
2 subdivision (a) of Section 739.8.

3 (2) The insurance commissioner of that state has notified the
4 insurer of its request for the filing in writing, in which case the
5 insurer shall file a copy of the RBC Plan or Revised RBC Plan in
6 that state no later than the later of:

7 (A) Fifteen days after the receipt of notice to file a copy of its
8 RBC Plan or Revised RBC Plan with the state.

9 (B) The date on which the RBC Plan or Revised RBC Plan is
10 filed under subdivision (c) of Section 739.7.

11 ~~SEC. 167.~~

12 *SEC. 166.* Section 1063.1 of the Insurance Code is amended
13 to read:

14 1063.1. As used in this article:

15 (a) “Member insurer” means an insurer required to be a member
16 of the association in accordance with subdivision (a) of Section
17 1063, except and to the extent that the insurer is participating in
18 an insolvency program adopted by the United States government.

19 (b) “Insolvent insurer” means an insurer that was a member
20 insurer of the association, consistent with paragraph (11) of
21 subdivision (c), either at the time the policy was issued or when
22 the insured event occurred, and against which an order of
23 liquidation or receivership with a finding of insolvency has been
24 entered by a court of competent jurisdiction, or, in the case of the
25 State Compensation Insurance Fund, if a finding of insolvency is
26 made by a duly enacted legislative measure.

27 (c) (1) “Covered claims” means the obligations of an insolvent
28 insurer, including the obligation for unearned premiums, that satisfy
29 all of the following requirements:

30 (A) Imposed by law and within the coverage of an insurance
31 policy of the insolvent insurer.

32 (B) Which were unpaid by the insolvent insurer.

33 (C) Which are presented as a claim to the liquidator in this state
34 or to the association on or before the last date fixed for the filing
35 of claims in the domiciliary liquidating proceedings.

36 (D) Which were incurred prior to the date coverage under the
37 policy terminated and prior to, on, or within 30 days after the date
38 the liquidator was appointed.

39 (E) For which the assets of the insolvent insurer are insufficient
40 to discharge in full.

1 (F) In the case of a policy of workers' compensation insurance,
2 to provide workers' compensation benefits under the workers'
3 compensation law of this state.

4 (G) In the case of other classes of insurance if the claimant or
5 insured is a resident of this state at the time of the insured
6 occurrence, or the property from which the claim arises is
7 permanently located in this state.

8 (2) "Covered claims" also includes the obligations assumed by
9 an assuming insurer from a ceding insurer where the assuming
10 insurer subsequently becomes an insolvent insurer if, at the time
11 of the insolvency of the assuming insurer, the ceding insurer is no
12 longer admitted to transact business in this state. Both the assuming
13 insurer and the ceding insurer shall have been member insurers at
14 the time the assumption was made. "Covered claims" under this
15 paragraph shall be required to satisfy the requirements of
16 subparagraphs (A) to (G), inclusive, of paragraph (1), except for
17 the requirement that the claims be against policies of the insolvent
18 insurer. The association shall have a right to recover any deposit,
19 bond, or other assets that may have been required to be posted by
20 the ceding company to the extent of covered claim payments and
21 shall be subrogated to any rights the policyholders may have
22 against the ceding insurer.

23 (3) "Covered claims" does not include obligations arising from
24 the following:

25 (A) Life, annuity, health, or disability insurance.

26 (B) Mortgage guaranty, financial guaranty, or other forms of
27 insurance offering protection against investment risks.

28 (C) Fidelity or surety insurance including fidelity or surety
29 bonds, or any other bonding obligations.

30 (D) Credit insurance.

31 (E) Title insurance.

32 (F) Ocean marine insurance or ocean marine coverage under
33 any insurance policy including claims arising from the following:
34 the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor
35 Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or
36 another similar federal statutory enactment, or an endorsement or
37 policy affording protection and indemnity coverage.

38 (G) A claims servicing agreement or insurance policy providing
39 retroactive insurance of a known loss or losses, except a special
40 excess workers' compensation policy issued pursuant to

1 subdivision (c) of Section 3702.8 of the Labor Code that covers
2 all or any part of workers' compensation liabilities of an employer
3 that is issued, or was previously issued, a certificate of consent to
4 self-insure pursuant to subdivision (b) of Section 3700 of the Labor
5 Code.

6 (4) "Covered claims" does not include obligations of the
7 insolvent insurer arising out of reinsurance contracts, nor
8 obligations incurred after the expiration date of the insurance policy
9 or after the insurance policy has been replaced by the insured or
10 canceled at the insured's request, or after the insurance policy has
11 been canceled by the association as provided in this chapter, or
12 after the insurance policy has been canceled by the liquidator, nor
13 obligations to a state or to the federal government.

14 (5) "Covered claims" does not include obligations to insurers,
15 insurance pools, or underwriting associations, nor their claims for
16 contribution, indemnity, or subrogation, equitable or otherwise,
17 except as otherwise provided in this chapter.

18 An insurer, insurance pool, or underwriting association shall not
19 maintain, in its own name or in the name of its insured, a claim or
20 legal action against the insured of the insolvent insurer for
21 contribution, indemnity or by way of subrogation, except insofar
22 as, and to the extent only, that the claim exceeds the policy limits
23 of the insolvent insurer's policy. In those claims or legal actions,
24 the insured of the insolvent insurer is entitled to a credit or setoff
25 in the amount of the policy limits of the insolvent insurer's policy,
26 or in the amount of the limits remaining, where those limits have
27 been diminished by the payment of other claims.

28 (6) "Covered claims," except in cases involving a claim for
29 workers' compensation benefits or for unearned premiums, does
30 not include a claim in an amount of one hundred dollars (\$100) or
31 less, nor that portion of a claim that is in excess of any applicable
32 limits provided in the insurance policy issued by the insolvent
33 insurer.

34 (7) "Covered claims" does not include that portion of a claim,
35 other than a claim for workers' compensation benefits, that is in
36 excess of five hundred thousand dollars (\$500,000).

37 (8) "Covered claims" does not include an amount awarded as
38 punitive or exemplary damages, nor an amount awarded by the
39 Workers' Compensation Appeals Board pursuant to Section 5814

1 or 5814.5 of the Labor Code because payment of compensation
2 was unreasonably delayed or refused by the insolvent insurer.

3 (9) “Covered claims” does not include (A) a claim to the extent
4 it is covered by any other insurance of a class covered by this
5 article available to the claimant or insured nor (B) a claim by a
6 person other than the original claimant under the insurance policy
7 in his or her own name, his or her assignee as the person entitled
8 thereto under a premium finance agreement as defined in Section
9 673 and entered into prior to insolvency, his or her executor,
10 administrator, guardian, or other personal representative or trustee
11 in bankruptcy and does not include a claim asserted by an assignee
12 or one claiming by right of subrogation, except as otherwise
13 provided in this chapter.

14 (10) “Covered claims” does not include obligations arising out
15 of the issuance of an insurance policy written by the separate
16 division of the State Compensation Insurance Fund pursuant to
17 Sections 11802 and 11803.

18 (11) “Covered claims” does not include obligations of the
19 insolvent insurer arising from any policy or contract of insurance
20 issued or renewed prior to the insolvent insurer’s admission to
21 transact insurance in the state.

22 (12) “Covered claims” does not include surplus deposits of
23 subscribers as defined in Section 1374.1.

24 (13) “Covered claims” shall also include obligations arising
25 under an insurance policy written to indemnify a permissibly
26 self-insured employer pursuant to subdivision (b) or (c) of Section
27 3700 of the Labor Code for its liability to pay workers’
28 compensation benefits in excess of a specific or aggregate retention,
29 provided, however, that for purposes of this article, those claims
30 shall not be considered workers’ compensation claims and therefore
31 are subject to the per claim limit in paragraph (7) and any payments
32 and expenses related thereto shall be allocated to category (c) of
33 Section 1063.5, which is for claims other than workers’
34 compensation, homeowners, and automobile, as provided in that
35 section.

36 These provisions shall apply to obligations arising under any
37 policy as described herein issued to a permissibly self-insured
38 employer or group of self-insured employers pursuant to Section
39 3700 of the Labor Code and notwithstanding any other provision
40 of the Insurance Code, those obligations shall be governed by this

1 provision in the event that the Self-Insurers' Security Fund is
2 ordered to assume the liabilities of a permissibly self-insured
3 employer or group of self-insured employers pursuant to Section
4 3701.5 of the Labor Code. The provisions of this paragraph apply
5 only to insurance policies written to indemnify a permissibly
6 self-insured employer or group of self-insured employers under
7 subdivision (b) or (c) of Section 3700, for its liability to pay
8 workers' compensation benefits in excess of a specific or aggregate
9 retention, and this paragraph does not apply to special excess
10 workers' compensation insurance policies unless issued pursuant
11 to authority granted in subdivision (c) of Section 3702.8 of the
12 Labor Code, and as provided for in subparagraph (G) of paragraph
13 (3). In addition, this paragraph does not apply to a claims servicing
14 agreement or insurance policy providing retroactive insurance of
15 a known loss or losses as are excluded in subparagraph (G) of
16 paragraph (3).

17 Each permissibly self-insured employer or group of self-insured
18 employers, or the Self-Insurers' Security Fund, shall, to the extent
19 required by the Labor Code, be responsible for paying, adjusting,
20 and defending each claim arising under policies of insurance
21 covered under this section, unless the benefits paid on a claim
22 exceed the specific or aggregate retention, in which case:

23 (A) If the benefits paid on the claim exceed the specific or
24 aggregate retention, and the policy requires the insurer to defend
25 and adjust the claim, the California Insurance Guarantee
26 Association (CIGA) shall be solely responsible for adjusting and
27 defending the claim, and shall make all payments due under the
28 claim, subject to the limitations and exclusions of this article with
29 regards to covered claims. As to each claim subject to this
30 paragraph, notwithstanding any other provisions of this code or
31 the Labor Code, and regardless of whether the amount paid by
32 CIGA is adequate to discharge a claim obligation, neither the
33 self-insured employer, group of employers, nor the Self-Insurers'
34 Security Fund shall have any obligation to pay benefits over and
35 above the specific or aggregate retention, except as provided in
36 subdivision (c).

37 (B) If the benefits paid on the claim exceed the specific or
38 aggregate retention, and the policy does not require the insurer to
39 defend and adjust the claim, the permissibly self-insured employer
40 or group of self-insured employers, or the Self-Insurers' Security

1 Fund, shall not have further payment obligations with respect to
2 the claim, but shall continue defending and adjusting the claim,
3 and shall have the right, but not the obligation, in any proceeding
4 to assert all applicable statutory limitations and exclusions as
5 contained in this article with regard to the covered claim. CIGA
6 shall have the right, but not the obligation, to intervene in any
7 proceeding where the self-insured employer, group of self-insured
8 employers, or the Self-Insurers' Security Fund is defending any
9 such claim and shall be permitted to raise the appropriate statutory
10 limitations and exclusions as contained in this article with respect
11 to covered claims. Regardless of whether the self-insured employer
12 or group of employers, or the Self-Insurers' Security Fund, asserts
13 the applicable statutory limitations and exclusions, or whether
14 CIGA intervenes in any such proceeding, CIGA shall be solely
15 responsible for paying all benefits due on the claim, subject to the
16 exclusions and limitations of this article with respect to covered
17 claims. As to each claim subject to this paragraph, notwithstanding
18 any other provision of this code or the Labor Code and regardless
19 of whether the amount paid by CIGA is adequate to discharge a
20 claim obligation, neither the self-insured employer, group of
21 employers, nor the Self-Insurers' Security Fund shall have any
22 obligation to pay benefits over and above the specific or aggregate
23 retention, except as provided in this subdivision.

24 (d) In the event that the benefits paid on the covered claim
25 exceed the per claim limit in paragraph (7) of subdivision (c), the
26 responsibility for paying, adjusting, and defending the claim shall
27 be returned to the permissibly self-insured employer or group of
28 employers, or the Self-Insurers' Security Fund.

29 These provisions shall apply to all pending and future
30 insolvencies. For purposes of this paragraph, a pending insolvency
31 is one involving a company that is currently receiving benefits
32 from the guarantee association.

33 (e) "Admitted to transact insurance in this state" means an
34 insurer possessing a valid certificate of authority issued by the
35 department.

36 (f) "Affiliate" means a person who directly or indirectly, through
37 one or more intermediaries, controls, is controlled by, or is under
38 common control with an insolvent insurer on December 31 of the
39 year next preceding the date the insurer becomes an insolvent
40 insurer.

1 (g) “Control” means the possession, direct or indirect, of the
2 power to direct or cause the direction of the management and
3 policies of a person, whether through the ownership of voting
4 securities, by contract other than a commercial contract for goods
5 or nonmanagement services, or otherwise, unless the power is the
6 result of an official position with or corporate office held by the
7 person. Control is presumed to exist if a person, directly or
8 indirectly, owns, controls, holds with the power to vote, or holds
9 proxies representing, 10 percent or more of the voting securities
10 of another person. This presumption may be rebutted by showing
11 that control does not in fact exist.

12 (h) “Claimant” means an insured making a first party claim or
13 a person instituting a liability claim, provided that no person who
14 is an affiliate of the insolvent insurer may be a claimant.

15 (i) “Ocean marine insurance” includes marine insurance as
16 defined in Section 103, except for inland marine insurance, as well
17 as any other form of insurance, regardless of the name, label, or
18 marketing designation of the insurance policy, that insures against
19 maritime perils or risks and other related perils or risks, which are
20 usually insured against by traditional marine insurance, such as
21 hull and machinery, marine builders’ risks, and marine protection
22 and indemnity. Those perils and risks insured against include,
23 without limitation, loss, damage, or expense or legal liability of
24 the insured arising out of or incident to ownership, operation,
25 chartering, maintenance, use, repair, or construction of a vessel,
26 craft, or instrumentality in use in ocean or inland waterways,
27 including liability of the insured for personal injury, illness, or
28 death for loss or damage to the property of the insured or another
29 person.

30 (j) “Unearned premium” means that portion of a premium as
31 calculated by the liquidator that had not been earned because of
32 the cancellation of the insolvent insurer’s policy and is that
33 premium remaining for the unexpired term of the insolvent
34 insurer’s policy. “Unearned premium” does not include an amount
35 sought as return of a premium under a policy providing retroactive
36 insurance of a known loss or return of a premium under a
37 retrospectively rated policy or a policy subject to a contingent
38 surcharge or a policy in which the final determination of the
39 premium cost is computed after expiration of the policy and is

1 calculated on the basis of actual loss experience during the policy
2 period.

3 ~~SEC. 168.~~

4 *SEC. 167.* Section 1626 of the Insurance Code is amended to
5 read:

6 1626. (a) A life licensee is a person authorized to act as a life
7 agent. Licenses to act as a life agent under this chapter shall be of
8 the following types:

9 (1) Life-only, which license shall entitle the licensee to transact
10 insurance coverage on human lives, including benefits of
11 endowment and annuities, and may include benefits in the event
12 of death or dismemberment by accident and benefits for disability
13 income.

14 (2) Accident and health, which license shall entitle the licensee
15 to transact insurance coverage for sickness, bodily injury, or
16 accidental death and may include benefits for disability income.

17 (b) An accident and health agent licensee also is authorized to
18 transact 24-hour care coverage, as defined in Section 1749.02,
19 pursuant to subdivision (d) of Section 1749 or subdivision (d) of
20 Section 1749.33.

21 ~~SEC. 169.~~

22 *SEC. 168.* Section 1764.1 of the Insurance Code is amended
23 to read:

24 1764.1. (a) (1) Every nonadmitted insurer, in the case of
25 insurance to be purchased by a resident of this state pursuant to
26 Section 1760, and surplus line broker, in the case of any insurance
27 with a nonadmitted carrier to be transacted by the surplus line
28 broker, shall be responsible to ensure that, at the time of accepting
29 an application for an insurance policy, other than a renewal of that
30 policy, issued by a nonadmitted insurer, the signature of the
31 applicant on the disclosure statement set forth in subdivision (b)
32 is obtained. In fulfillment of this responsibility, the nonadmitted
33 insurer and the surplus line broker may rely, if it is reasonable
34 under all the circumstances to do so, on the disclosure statement
35 received from a licensee involved in the transaction as prima facie
36 evidence that the disclosure statement and appropriate signature
37 from the applicant have been obtained. The surplus line broker
38 shall maintain a copy of the signed disclosure statement in his or
39 her records for a period of at least five years. These records shall
40 be made available to the commissioner and the insured upon

1 request. This disclosure shall be signed by the applicant, and is
 2 not subject to any limited power of attorney agreement between
 3 the applicant and an agent or broker, or a surplus line broker. The
 4 disclosure statement shall be in boldface 16-point type on a
 5 freestanding document. In addition, every policy issued by a
 6 nonadmitted insurer and every certificate evidencing the placement
 7 of insurance shall contain, or have affixed to it by the insurer or
 8 surplus line broker, the disclosure statement set forth in subdivision
 9 (b) in boldface 16-point type on the front page of the policy.

10 (2) In a case in which the applicant has not received and
 11 completed the signed disclosure form required by this section, he
 12 or she may cancel the insurance so placed. The cancellation shall
 13 be on a pro rata basis as to premium, and the applicant shall be
 14 entitled to the return of any broker’s fees charged for the placement.

15 (b) The following notice shall be provided to policyholders and
 16 applicants for insurance as provided by subdivision (a), and shall
 17 be printed in English and in the language principally used by the
 18 surplus line broker and nonadmitted insurer to advertise, solicit,
 19 or negotiate the sale and purchase of surplus line insurance. The
 20 surplus line broker and nonadmitted insurer shall use the
 21 appropriate bracketed language for application and issued policy
 22 disclosures:

23
 24 “NOTICE:

25
 26 1. THE INSURANCE POLICY THAT YOU [HAVE
 27 PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING
 28 ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE
 29 STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED
 30 “NONADMITTED” OR “SURPLUS LINE” INSURERS.

31 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL
 32 SOLVENCY REGULATION AND ENFORCEMENT THAT
 33 APPLY TO CALIFORNIA LICENSED INSURERS.

34 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF
 35 THE INSURANCE GUARANTEE FUNDS CREATED BY
 36 CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL
 37 NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF
 38 THE INSURER BECOMES INSOLVENT AND IS UNABLE
 39 TO MAKE PAYMENTS AS PROMISED.

1 4. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE
2 SURPLUS LINE INSURERS APPROVED BY THE
3 INSURANCE COMMISSIONER. ASK YOUR AGENT OR
4 BROKER IF THE INSURER IS ON THAT LIST, OR VIEW
5 THAT LIST AT THE INTERNET WEB SITE OF THE
6 CALIFORNIA DEPARTMENT OF INSURANCE:

7 www.insurance.ca.gov.

8 5. FOR ADDITIONAL INFORMATION ABOUT THE
9 INSURER, YOU SHOULD ASK QUESTIONS OF YOUR
10 INSURANCE AGENT, BROKER, OR “SURPLUS LINE”
11 BROKER OR CONTACT THE CALIFORNIA DEPARTMENT
12 OF INSURANCE, AT THE FOLLOWING TOLL-FREE
13 TELEPHONE NUMBER: _____.

14 6. IF YOU, AS THE APPLICANT, REQUIRED THAT THE
15 INSURANCE POLICY YOU HAVE PURCHASED BE BOUND
16 IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE
17 WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR
18 BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE
19 WITHIN TWO BUSINESS DAYS, AND YOU DID NOT
20 RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR
21 YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME
22 EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS
23 POLICY WITHIN FIVE DAYS OF RECEIVING THIS
24 DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM
25 WILL BE PRORATED AND ANY BROKER’S FEE CHARGED
26 FOR THIS INSURANCE WILL BE RETURNED TO YOU.”

27
28 (c) When a contract is issued to an industrial insured neither the
29 nonadmitted insurer nor the surplus line broker is required to
30 provide the notice required in this section except on the
31 confirmation of insurance, the certificate of placement, or the
32 policy, whichever is first provided to the insured, nor is the insurer
33 or surplus line broker required to obtain the insured’s signature.
34 The producer shall ensure that the notice affixed to the confirmation
35 of insurance, certificate of placement, or the policy is provided to
36 the insured. The producer shall insert the current toll-free telephone
37 number of the Department of Insurance as provided in paragraph
38 5 of the notice.

39 (1) An industrial insured is an insured:

1 (A) Which employs at least 25 employees on average during
2 the prior 12 months; and

3 (B) Which has aggregate annual premiums for insurance for all
4 risks other than workers' compensation and health coverage
5 totaling no less than twenty-five thousand dollars (\$25,000); or

6 (C) Which obtains insurance through the services of a full-time
7 employee acting as an insurance manager or a continuously retained
8 insurance consultant. A "continuously retained insurance
9 consultant" does not include: (i) an agent or broker through whom
10 the insurance is being placed, (ii) a subagent or subproducer
11 involved in the transaction, or (iii) an agent or broker that is a
12 business organization employing or contracting with a person
13 mentioned in clauses (i) and (ii).

14 (2) The surplus line broker shall be responsible to ensure that
15 the applicant is an industrial insured. A surplus line broker who
16 reasonably relies on information provided in good faith by the
17 applicant, whether directly or through the producer, shall be
18 deemed to be in compliance with this requirement.

19 (d) For purposes of compliance with the requirement of
20 subdivision (a) that the signature of the applicant be obtained, the
21 following shall apply:

22 (1) If the insurance transaction is not conducted at an in-person,
23 face-to-face meeting, the applicant's signature on the disclosure
24 form may be transmitted by the applicant to the agent or broker
25 via facsimile or comparable electronic transmittal.

26 (2) In the case of commercial lines coverage, or personal
27 insurance coverage subject to Section 675 and any umbrella
28 coverage associated therewith, where an applicant requires that
29 insurance coverage be bound immediately, either because existing
30 coverage will lapse within two business days of the time the
31 insurance is bound or because the applicant is required to have
32 coverage in place within two business days, and the applicant
33 cannot meet in person with the agent or broker to sign the
34 disclosure form, the agent or broker may obtain the signature of
35 the applicant within five days of binding coverage, provided that
36 the applicant may cancel the insurance so placed within five days
37 of receiving the disclosure form from the agent or broker. The
38 cancellation shall be on a pro rata basis, and the applicant shall be
39 entitled to the rescission or return of any broker's fees charged for
40 the placement. When a policy is canceled, the broker shall inform

1 the applicant that the broker's fee must be returned and that the
2 premium must be prorated.

3 (e) Notwithstanding subdivision (a), this section shall not apply
4 to insurance issued or delivered in this state by a nonadmitted
5 Mexican insurer by and through a surplus line broker affording
6 coverage exclusively in the Republic of Mexico on property located
7 temporarily or permanently in, or operations conducted temporarily
8 or permanently within, the Republic of Mexico.

9 ~~SEC. 170.~~

10 *SEC. 169.* Section 1765 of the Insurance Code is amended to
11 read:

12 1765. (a) A license under this chapter shall be applied for and
13 renewed by the filing with the commissioner of a written
14 application therefor, in accordance with Section 1652.

15 (b) Subject to subdivision (f), the commissioner shall issue a
16 license authorizing an applicant who is trustworthy and competent
17 to transact an insurance brokerage business in a manner to
18 safeguard the interest of the insured, to act as a surplus line broker
19 from the date of the license until the expiration date specified in
20 Section 1630. In order to transact surplus line brokerage business,
21 an individual shall be licensed as a surplus line broker.

22 (c) An applicant for a surplus line broker's license, as part of
23 the application and a condition of the issuance of the license, shall
24 file a bond to the people of the State of California in the sum of
25 fifty thousand dollars (\$50,000), conditioned that the licensee will
26 fully and faithfully comply with the requirements of this chapter,
27 and all applicable provisions of this code. The bond shall be subject
28 to Sections 1662 and 1663. A surplus line broker bond is not
29 required for an individual licensed as a surplus line broker who
30 transacts only on behalf of a licensed surplus line broker
31 organization.

32 (d) The filing fee for a license to act as a surplus line broker
33 shall be seven hundred dollars (\$700) every two years, or for any
34 initial fractional license year. An applicant for a business entity
35 license, as provided in subdivision (a) of Section 1765.2, shall
36 provide the names of all persons who may exercise the power and
37 perform the duties under the license. Whenever an organization
38 licensed as a surplus line broker desires to change, remove, or add
39 to the natural person or persons who are to transact insurance under
40 authority of its license, it shall immediately file an application or

1 notice with the commissioner for an endorsement changing its
2 license accordingly, on a form prescribed by the commissioner.
3 The fee for adding or removing from a surplus line broker's license
4 issued to an organization the name of a natural person, named
5 thereon, shall be twenty-four dollars (\$24). The commissioner
6 shall require that the qualifying examination provided by
7 subdivision (a) of Section 1676 be taken by a natural person named
8 by the organization to exercise its agency or brokerage powers
9 who would be required to take and pass the qualifying examination.
10 That natural person or persons and the organization are in all other
11 respects subject to the provisions of this chapter and the insurance
12 laws.

13 (e) The license shall be renewed in accordance with, and subject
14 to, Sections 1717, 1718, 1719, and 1720.

15 (f) The commissioner may deny, suspend, or revoke a license
16 applied for or granted pursuant to this chapter on all or any one of
17 the grounds and in accordance with the procedures provided in
18 Article 6 (commencing with Section 1666) and Article 13
19 (commencing with Section 1737) of Chapter 5, if the commissioner
20 finds that the applicant or licensee has committed a violation of a
21 provision of this code.

22 ~~SEC. 171.~~

23 *SEC. 170.* Section 1872.8 of the Insurance Code is amended
24 to read:

25 1872.8. (a) An insurer doing business in this state shall pay
26 an annual special purpose assessment to be determined by the
27 commissioner, but not to exceed one dollar (\$1) annually, for each
28 vehicle insured under an insurance policy it issues in this state, in
29 order to fund increased investigation and prosecution of fraudulent
30 automobile insurance claims and economic automobile theft.
31 Thirty-four percent of those funds received from ninety-five cents
32 (\$0.95) of the special purpose assessment per insured vehicle shall
33 be distributed to the Fraud Division for enhanced investigative
34 efforts, 15 percent of that ninety-five cents (\$0.95) shall be
35 deposited in the Motor Vehicle Account for appropriation to the
36 Department of the California Highway Patrol for enhanced
37 prevention and investigative efforts to deter economic automobile
38 theft, and 51 percent of that ninety-five cents (\$0.95) shall be
39 distributed to district attorneys for purposes of investigation and

1 prosecution of automobile insurance fraud cases, including fraud
2 involving economic automobile theft.

3 (b) (1) The commissioner shall award funds to district attorneys
4 according to population. The commissioner may alter this
5 distribution formula as necessary to achieve the most effective
6 distribution of funds. A local district attorney desiring a portion
7 of those funds shall submit to the commissioner an application
8 detailing the proposed use of any moneys that may be provided.
9 The application shall include a detailed accounting of assessment
10 funds received and expended in prior years, including, at a
11 minimum, all of the following:

12 (A) The amount of funds received and expended.

13 (B) The uses to which those funds were put, including payment
14 of salaries and expenses, purchase of equipment and supplies, and
15 other expenditures by type.

16 (C) The results achieved as a consequence of expenditures made,
17 including the number of investigations, arrests, complaints filed,
18 convictions, and the amounts originally claimed in cases prosecuted
19 compared to payments actually made in those cases.

20 (D) Other relevant information as the commissioner may
21 reasonably require.

22 A district attorney who fails to submit an application by the
23 deadline set by the commissioner shall be subject to loss of
24 distribution of the moneys. The commissioner may consider
25 recommendations and advice of the Fraud Division and the
26 Commissioner of the California Highway Patrol in allocating
27 moneys to local district attorneys. A district attorney that receives
28 funds shall submit an annual report to the commissioner, which
29 may be made public, as to the success of the program administered.
30 The report shall provide information and statistics on the number
31 of active investigations, arrests, indictments, and convictions. Both
32 the application for moneys and the distribution of moneys shall
33 be public documents. The commissioner shall conduct a fiscal
34 audit of the programs administered under this subdivision at least
35 once every three years. The costs of a fiscal audit shall be shared
36 equally between the department and the district attorney.
37 Information submitted to the commissioner pursuant to this section
38 concerning criminal investigations, whether active or inactive,
39 shall be confidential. If the commissioner determines that a district
40 attorney is unable or unwilling to investigate and prosecute

1 automobile insurance fraud claims as provided by this subdivision
2 or Section 1874.8, the commissioner may discontinue the
3 distribution of funds allocated for that county and may redistribute
4 those funds to other eligible district attorneys.

5 (2) The Department of the California Highway Patrol shall
6 submit to the commissioner, for informational purposes only, a
7 report detailing the department's proposed use of funds under this
8 section and an annual report in the same format as required of
9 district attorneys under paragraph (1).

10 (c) The remaining five cents (\$0.05) shall be spent for enhanced
11 automobile insurance fraud investigation by the Fraud Division.

12 (d) Except for funds to be deposited in the Motor Vehicle
13 Account for allocation to the Department of the California Highway
14 Patrol for purposes of the Motor Vehicle Theft Prevention Act
15 (Chapter 5 (commencing with Section 10900) of Division 4 of the
16 Vehicle Code), the funds received under this section shall be
17 deposited in the Insurance Fund and be expended and distributed
18 when appropriated by the Legislature.

19 (e) In the course of its investigations, the Fraud Division shall
20 pursue aggressively all reported incidents of probable fraud and,
21 in addition, shall forward to the appropriate disciplinary body the
22 names of individuals licensed under the Business and Professions
23 Code who are suspected of actively engaging in fraudulent activity
24 along with all relevant supporting evidence.

25 (f) As used in this section, "economic automobile theft" means
26 automobile theft perpetrated for financial gain, including, but not
27 limited to, the following:

28 (1) Theft of a motor vehicle for financial gain.

29 (2) Reporting that a motor vehicle has been stolen for the
30 purpose of filing a false insurance claim.

31 (3) Engaging in any act prohibited by Chapter 3.5 (commencing
32 with Section 10801) of Division 4 of the Vehicle Code.

33 (4) Switching of vehicle identification numbers to obtain title
34 to a stolen motor vehicle.

35 ~~SEC. 172.~~

36 *SEC. 171.* Section 1872.81 of the Insurance Code is amended
37 to read:

38 1872.81. In addition to the special purpose assessment imposed
39 pursuant to Section 1872.8, an insurer doing business in this state
40 shall pay to the commissioner an annual special purpose assessment

1 of thirty cents (\$0.30) for each vehicle insured under an insurance
2 policy it issues in this state, for expenditure as follows:

3 (a) An amount equivalent to twenty cents (\$0.20) of the special
4 purpose assessment imposed per insured vehicle by this section
5 shall be used for the purpose of paying for consumer service
6 functions of the department that are related to automobile
7 insurance. The revenues under this subdivision shall be used to
8 improve service to consumers through the rating and underwriting
9 services bureau, the claims services bureau, the investigations
10 bureau, or any successor bureaus of the department that may
11 assume the consumer service functions of these bureaus, and legal
12 services in support of these bureaus. The department shall develop
13 a plan for the use of the revenues available under this subdivision
14 for the purposes authorized, and shall submit the plan to the
15 Assembly and Senate Committees on Insurance.

16 (b) An amount equivalent to ten cents (\$0.10) of the special
17 purpose assessment imposed per insured vehicle by this section
18 shall be used for the purpose of improving consumer functions of
19 the department related to automobile insurance. Revenues available
20 under this subdivision shall be used to improve consumer functions
21 through one or more of the following:

- 22 (1) The rating and underwriting services bureau.
- 23 (2) The claims services bureau.
- 24 (3) The investigations bureau.
- 25 (4) Any successor bureau of the department that may assume
26 automobile insurance consumer functions of these bureaus, and
27 legal services in support of these bureaus. These revenues also
28 may be used for improving the ability of the department to respond
29 to consumer complaints and information requests through the
30 department's toll-free telephone number, and for improving the
31 ability of the department to offer information about automobile
32 insurance rates to the public. The department shall develop a plan
33 for the use of the revenues available under this subdivision for the
34 purpose authorized, and shall submit the plan to the Assembly and
35 Senate Committees on Insurance.

36 (c) Notwithstanding subdivision (b), the Department of
37 Insurance, after January 1, 2006, and the Department of Motor
38 Vehicles, after that date, may propose to the budget committees
39 of the Legislature a proposed use of up to five cents (\$0.05) of the
40 ten-cent (\$0.10) special purpose assessment levied pursuant to

1 subdivision (b) related to informing consumers about the existence
2 of any low-cost automobile insurance program authorized in law
3 pursuant to Section 11629.7 or other statutes that also establish a
4 program of the type identified in Section 11629.7. Funds for this
5 purpose shall not be expended without prior budget approval. The
6 total amount of funds authorized to both departments in total, or
7 to one department in total, for this purpose shall not exceed five
8 cents (\$0.05). The departments shall explain, with as much
9 specificity as is reasonably possible, the objectives for the use of
10 the funds and quantitative criteria by which the Legislature may
11 evaluate the effectiveness of the department's use of funds.

12 (d) At least five cents (\$0.05) of the ten-cent (\$0.10) special
13 purpose assessment shall be directed to the purpose set forth in
14 subdivision (a) until January 1, 2009, and to the degree that funding
15 for low-cost auto insurance is not fully appropriated up to five
16 cents (\$0.05), the difference thereof shall be additionally allocated
17 to purposes set forth in subdivision (a).

18 (e) This section shall remain in effect only until January 1, 2010,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2010, deletes or extends that date.

21 ~~SEC. 173.~~

22 *SEC. 172.* Section 1872.86 of the Insurance Code is amended
23 to read:

24 1872.86. (a) An insurer doing business in this state shall pay
25 an annual special purpose assessment to be determined by the
26 commissioner, not to exceed five thousand one hundred dollars
27 (\$5,100), to be used exclusively for the support of the Fraud
28 Division. All moneys received by the commissioner from insurers
29 pursuant to this section shall be transmitted to the Treasurer to be
30 deposited in the State Treasury to the credit of the Insurance Fund.

31 (b) The Fraud Division shall report annually, on the department's
32 Internet Web site, all of the following information:

33 (1) The number of suspected fraudulent claim referrals made
34 to the Fraud Division pursuant to Section 1872.4, by line of
35 insurance.

36 (2) The number of investigations opened by the Fraud Division,
37 by line of insurance, at the local, state, and federal levels.

38 (3) The number of investigations referred by the Fraud Division
39 for criminal prosecution, by line of insurance, at the local, state,
40 and federal levels.

1 (4) The number of insurer fraud cases investigated by the
2 department's Enforcement Branch.

3 (5) The number of criminal complaints filed by prosecutors at
4 the local, state, and federal levels.

5 (6) The number of convictions at the local, state, and federal
6 levels.

7 (7) The total amount of court-ordered restitution, and the amount
8 collected by the courts for the victims.

9 (8) The number of training presentations focusing on the current
10 schemes and trends, investigative tools and techniques, and proper
11 reporting requirements needed to increase the quality of suspected
12 fraudulent referrals by insurance industry special investigation
13 units.

14 (9) The number of vacant peace officer positions, including
15 information on the number and rate of vacancies for which an
16 employment commitment has been made and on the number and
17 rate of vacancies required to meet budgeted salary savings
18 requirements.

19 ~~SEC. 174.~~

20 *SEC. 173.* Section 15031 of the Insurance Code is amended to
21 read:

22 15031. (a) A licensee shall not conduct a business under a
23 fictitious or other business name unless and until he or she has
24 obtained the written authorization of the commissioner to do so.

25 (b) The commissioner shall not authorize the use of a fictitious
26 or other business name that is so similar to that of a public officer
27 or agency or that used by another licensee that the public may be
28 confused or misled thereby.

29 (c) The authorization shall require, as a condition precedent to
30 the use of a fictitious name, that the licensee comply with Section
31 1724.5 of this code and Chapter 5 (commencing with Section
32 17900) of Part 3 of Division 7 of the Business and Professions
33 Code.

34 (d) A licensee desiring to conduct his or her business under
35 more than one fictitious name shall obtain the authorization of the
36 commissioner in a manner prescribed in this section for the use of
37 additional fictitious names.

38 (e) The licensee shall pay a fee of ten dollars (\$10) for each
39 authorization to use an additional fictitious name and for each
40 change in the use of a fictitious business name. If the original

1 license is issued in a nonfictitious name and authorization is
2 requested to have the license reissued in a fictitious business name,
3 the licensee shall pay a fee of ten dollars (\$10) for that
4 authorization.

5 ~~SEC. 175.~~

6 *SEC. 174.* Section 77.7 of the Labor Code is amended to read:

7 77.7. (a) A study shall be undertaken to examine the causes
8 of the number of insolvencies among workers' compensation
9 insurers within the past 10 years. The study shall be conducted by
10 an independent research organization under the direction of the
11 commission. Not later than July 1, 2009, the commission and the
12 department shall publish the report of the study on its Internet Web
13 site and shall inform the Legislature and the Governor of the
14 availability of the report.

15 (b) The study shall include an analysis of the following: the
16 access to capital for workers' compensation insurance from all
17 sources between 1993 and 2003; the availability, source, and risk
18 assumed of reinsurers during this period; the use of deductible
19 policies and their effect on solvency regulation; market activities
20 by insurers and producers that affected market concentration;
21 activities, including financial oversight of insurers, by insurance
22 regulators and the National Association of Insurance
23 Commissioners during this period; the quality of data reporting to
24 the commissioner's designated statistical agent and the accuracy
25 of recommendations provided by the commissioner's designated
26 statistical agent during this period of time; and underwriting, claims
27 adjusting, and reserving practices of insolvent insurers. The study
28 shall also include a survey of reports of other state agencies
29 analyzing the insurance market response to rising system costs
30 within the applicable time period.

31 (c) Data reasonably required for the study shall be made
32 available by the California Insurance Guarantee Association,
33 Workers' Compensation Insurance Rating Bureau, third-party
34 administrators for the insolvent insurers, whether prior to or after
35 the insolvency, the State Compensation Insurance Fund, and the
36 Department of Insurance. The commission shall also include a
37 survey of reports by the commission and other state agencies
38 analyzing the insurance market response to rising system costs
39 within the applicable period of time.

1 (d) The cost of the study is not to exceed one million dollars
2 (\$1,000,000). Confidential information identifiable to a natural
3 person or insurance company held by an agency, organization,
4 association, or other person or entity shall be released to researchers
5 upon satisfactory agreement to maintain confidentiality.
6 Information or material that is not subject to subpoena from the
7 agency, organization, association, or other person or entity shall
8 not be subject to subpoena from the commission or the contracted
9 research organization.

10 (e) The costs of the study shall be borne one-half by the
11 commission from funds derived from the Workers' Compensation
12 Administration Revolving Fund and one-half by insurers from
13 assessments allocated to each insurer based on the insurer's
14 proportionate share of the market as shown by the Market Share
15 Report for Calendar Year 2006 published by the Department of
16 Insurance.

17 (f) In order to protect individual company trade secrets, this
18 study shall not lead to the disclosure of, either directly or indirectly,
19 the business practices of a company that provides data pursuant
20 to this section. This prohibition shall not apply to insurance
21 companies that have been ordered by a court of competent
22 jurisdiction to be placed in liquidation under the supervision of a
23 liquidator or other authority.

24 ~~SEC. 176.~~

25 *SEC. 175.* Section 4604.5 of the Labor Code is amended to
26 read:

27 4604.5. (a) Upon adoption by the administrative director of a
28 medical treatment utilization schedule pursuant to Section 5307.27,
29 the recommended guidelines set forth in the schedule shall be
30 presumptively correct on the issue of extent and scope of medical
31 treatment. The presumption is rebuttable and may be controverted
32 by a preponderance of the scientific medical evidence establishing
33 that a variance from the guidelines reasonably is required to cure
34 or relieve the injured worker from the effects of his or her injury.
35 The presumption created is one affecting the burden of proof.

36 (b) The recommended guidelines set forth in the schedule
37 adopted pursuant to subdivision (a) shall reflect practices that are
38 evidence and scientifically based, nationally recognized, and peer
39 reviewed. The guidelines shall be designed to assist providers by
40 offering an analytical framework for the evaluation and treatment

1 of injured workers, and shall constitute care in accordance with
2 Section 4600 for all injured workers diagnosed with industrial
3 conditions.

4 (c) Three months after the publication date of the updated
5 American College of Occupational and Environmental Medicine's
6 Occupational Medicine Practice Guidelines, and continuing until
7 the effective date of a medical treatment utilization schedule,
8 pursuant to Section 5307.27, the recommended guidelines set forth
9 in the American College of Occupational and Environmental
10 Medicine's Occupational Medicine Practice Guidelines shall be
11 presumptively correct on the issue of extent and scope of medical
12 treatment, regardless of date of injury. The presumption is
13 rebuttable and may be controverted by a preponderance of the
14 evidence establishing that a variance from the guidelines reasonably
15 is required to cure and relieve the employee from the effects of
16 his or her injury, in accordance with Section 4600. The presumption
17 created is one affecting the burden of proof.

18 (d) (1) Notwithstanding the medical treatment utilization
19 schedule or the guidelines set forth in the American College of
20 Occupational and Environmental Medicine's Occupational
21 Medicine Practice Guidelines, for injuries occurring on and after
22 January 1, 2004, an employee shall be entitled to no more than 24
23 chiropractic, 24 occupational therapy, and 24 physical therapy
24 visits per industrial injury.

25 (2) Paragraph (1) shall not apply when an employer authorizes,
26 in writing, additional visits to a health care practitioner for physical
27 medicine services.

28 (3) Paragraph (1) shall not apply to visits for postsurgical
29 physical medicine and postsurgical rehabilitation services provided
30 in compliance with a postsurgical treatment utilization schedule
31 established by the administrative director pursuant to Section
32 5307.27.

33 (e) For all injuries not covered by the American College of
34 Occupational and Environmental Medicine's Occupational
35 Medicine Practice Guidelines or the official utilization schedule
36 after adoption pursuant to Section 5307.27, authorized treatment
37 shall be in accordance with other evidence-based medical treatment
38 guidelines that are recognized generally by the national medical
39 community and scientifically based.

1 ~~SEC. 177.~~

2 *SEC. 176.* Section 4658.5 of the Labor Code is amended to
3 read:

4 4658.5. (a) Except as provided in Section 4658.6, if the injury
5 causes permanent partial disability and the injured employee does
6 not return to work for the employer within 60 days of the
7 termination of temporary disability, the injured employee shall be
8 eligible for a supplemental job displacement benefit in the form
9 of a nontransferable voucher for education-related retraining or
10 skill enhancement, or both, at state-approved or accredited schools,
11 as follows:

12 (1) Up to four thousand dollars (\$4,000) for permanent partial
13 disability awards of less than 15 percent.

14 (2) Up to six thousand dollars (\$6,000) for permanent partial
15 disability awards between 15 and 25 percent.

16 (3) Up to eight thousand dollars (\$8,000) for permanent partial
17 disability awards between 26 and 49 percent.

18 (4) Up to ten thousand dollars (\$10,000) for permanent partial
19 disability awards between 50 and 99 percent.

20 (b) The voucher may be used for payment of tuition, fees, books,
21 and other expenses required by the school for retraining or skill
22 enhancement. No more than 10 percent of the voucher moneys
23 may be used for vocational or return-to-work counseling. The
24 administrative director shall adopt regulations governing the form
25 of payment, direct reimbursement to the injured employee upon
26 presentation to the employer of appropriate documentation and
27 receipts, and other matters necessary to the proper administration
28 of the supplemental job displacement benefit.

29 (c) Within 10 days of the last payment of temporary disability,
30 the employer shall provide to the employee, in the form and manner
31 prescribed by the administrative director, information that provides
32 notice of rights under this section. This notice shall be sent by
33 certified mail.

34 (d) This section shall apply to injuries occurring on or after
35 January 1, 2004.

36 ~~SEC. 178.~~

37 *SEC. 177.* Section 293 of the Penal Code is amended to read:

38 293. (a) An employee of a law enforcement agency who
39 personally receives a report from a person, alleging that the person
40 making the report has been the victim of a sex offense, shall inform

1 that person that his or her name will become a matter of public
2 record unless he or she requests that it not become a matter of
3 public record, pursuant to Section 6254 of the Government Code.

4 (b) ~~At~~ A written report of an alleged sex offense shall indicate
5 that the alleged victim has been properly informed pursuant to
6 subdivision (a) and shall memorialize his or her response.

7 (c) A law enforcement agency shall not disclose to a person,
8 except the prosecutor, parole officers of the Department of
9 Corrections and Rehabilitation, hearing officers of the parole
10 authority, probation officers of county probation departments, or
11 other persons or public agencies where authorized or required by
12 law, the address of a person who alleges to be the victim of a sex
13 offense.

14 (d) A law enforcement agency shall not disclose to a person,
15 except the prosecutor, parole officers of the Department of
16 Corrections and Rehabilitation, hearing officers of the parole
17 authority, probation offices of county probation departments, or
18 other persons or public agencies where authorized or required by
19 law, the name of a person who alleges to be the victim of a sex
20 offense, if that person has elected to exercise his or her right
21 pursuant to this section and Section 6254 of the Government Code.

22 (e) For purposes of this section, sex offense means any crime
23 listed in paragraph (2) of subdivision (f) of Section 6254 of the
24 Government Code.

25 (f) Parole officers of the Department of Corrections and
26 Rehabilitation, hearing officers of the parole authority, and
27 probation officers of county probation departments shall be entitled
28 to receive information pursuant to subdivisions (c) and (d) only if
29 the person to whom the information pertains alleges that he or she
30 is the victim of a sex offense, the alleged perpetrator of which is
31 a parolee who is alleged to have committed the sex offense while
32 on parole, or in the case of a county probation officer, the person
33 who is alleged to have committed the sex offense is a probationer
34 or is under investigation by a county probation department pursuant
35 to Section 1203.

36 ~~SEC. 179.~~

37 *SEC. 178.* Section 398 of the Penal Code is amended to read:

38 398. (a) If a person owning or having custody or control of an
39 animal knows, or has reason to know, that the animal bit another
40 person, he or she shall, as soon as is practicable, but no later than

1 48 hours thereafter, provide the other person with his or her name,
2 address, telephone number, and the name and license tag number
3 of the animal who bit the other person. If the person with custody
4 or control of the animal at the time the bite occurs is a minor, he
5 or she shall instead provide identification or contact information
6 of an adult owner or responsible party. If the animal is required
7 by law to be vaccinated against rabies, the person owning or having
8 custody or control of the animal shall, within 48 hours of the bite,
9 provide the other person with information regarding the status of
10 the animal's vaccinations. Violation of this section is an infraction
11 punishable by a fine of not more than one hundred dollars (\$100).

12 (b) For purposes of this section, it is necessary for the skin of
13 the person to be broken or punctured by the animal for the contact
14 to be classified as a bite.

15 ~~SEC. 180.~~

16 *SEC. 179.* Section 903.2 of the Penal Code is amended to read:

17 903.2. The jury commissioner shall diligently inquire and
18 inform himself or herself in respect to the qualifications of persons
19 resident in his or her county who may be liable to be summoned
20 for grand jury duty. He or she may require a person to answer,
21 under oath to be administered by him or her, all questions as he
22 or she may address to that person, touching his or her name, age,
23 residence, occupation, and qualifications as a grand juror, and also
24 all questions as to similar matters concerning other persons of
25 whose qualifications for grand jury duty he or she has knowledge.

26 The commissioner and his or her assistants, referred to in
27 Sections 69895 and 69896 of the Government Code, shall have
28 the power to administer oaths and shall be allowed actual traveling
29 expenses incurred in the performance of their duties. Those
30 traveling expenses shall be audited, allowed, and paid out of the
31 general fund of the county.

32 ~~SEC. 181.~~

33 *SEC. 180.* Section 1170 of the Penal Code, as amended by
34 Section 1 of Chapter 740 of the Statutes of 2007, is amended to
35 read:

36 1170. (a) (1) The Legislature finds and declares that the
37 purpose of imprisonment for crime is punishment. This purpose
38 is best served by terms proportionate to the seriousness of the
39 offense with provision for uniformity in the sentences of offenders
40 committing the same offense under similar circumstances. The

1 Legislature further finds and declares that the elimination of
2 disparity and the provision of uniformity of sentences can best be
3 achieved by determinate sentences fixed by statute in proportion
4 to the seriousness of the offense as determined by the Legislature
5 to be imposed by the court with specified discretion.

6 (2) Notwithstanding paragraph (1), the Legislature further finds
7 and declares that programs should be available for inmates,
8 including, but not limited to, educational programs, that are
9 designed to prepare nonviolent felony offenders for successful
10 reentry into the community. The Legislature encourages the
11 development of policies and programs designed to educate and
12 rehabilitate nonviolent felony offenders. In implementing this
13 section, the Department of Corrections and Rehabilitation is
14 encouraged to give priority enrollment in programs to promote
15 successful return to the community to an inmate with a short
16 remaining term of commitment and a release date that would allow
17 him or her adequate time to complete the program.

18 (3) In a case in which the punishment prescribed by statute for
19 a person convicted of a public offense is a term of imprisonment
20 in the state prison of any specification of three time periods, the
21 court shall sentence the defendant to one of the terms of
22 imprisonment specified unless the convicted person is given
23 another disposition provided by law, including a fine, jail,
24 probation, or the suspension of imposition or execution of sentence
25 or is sentenced pursuant to subdivision (b) of Section 1168 because
26 he or she had committed his or her crime prior to July 1, 1977. In
27 sentencing the convicted person, the court shall apply the
28 sentencing rules of the Judicial Council. The court, unless it
29 determines that there are circumstances in mitigation of the
30 punishment prescribed, shall also impose any other term that it is
31 required by law to impose as an additional term. This article does
32 not affect a provision of law that imposes the death penalty, that
33 authorizes or restricts the granting of probation or suspending the
34 execution or imposition of sentence, or expressly provides for
35 imprisonment in the state prison for life. In a case in which the
36 amount of preimprisonment credit under Section 2900.5 or another
37 provision of law is equal to or exceeds a sentence imposed pursuant
38 to this chapter, the entire sentence shall be deemed to have been
39 served and the defendant shall not be actually delivered to the
40 custody of the secretary. The court shall advise the defendant that

1 he or she shall serve a period of parole and order the defendant to
2 report to the parole office closest to the defendant's last legal
3 residence, unless the in-custody credits equal the total sentence,
4 including both confinement time and the period of parole. The
5 sentence shall be deemed a separate prior prison term under Section
6 667.5, and a copy of the judgment and other necessary
7 documentation shall be forwarded to the secretary.

8 (b) When a judgment of imprisonment is to be imposed and the
9 statute specifies three possible terms, the choice of the appropriate
10 term shall rest within the sound discretion of the court. At least
11 four days prior to the time set for imposition of judgment, either
12 party or the victim, or the family of the victim if the victim is
13 deceased, may submit a statement in aggravation or mitigation. In
14 determining the appropriate term, the court may consider the record
15 in the case, the probation officer's report, other reports including
16 reports received pursuant to Section 1203.03 and statements in
17 aggravation or mitigation submitted by the prosecution, the
18 defendant, or the victim, or the family of the victim if the victim
19 is deceased, and any further evidence introduced at the sentencing
20 hearing. The court shall select the term that, in the court's
21 discretion, best serves the interests of justice. The court shall set
22 forth on the record the reasons for imposing the term selected and
23 the court shall not impose an upper term by using the fact of an
24 enhancement upon which sentence is imposed under any provision
25 of law. A term of imprisonment shall not be specified if imposition
26 of sentence is suspended.

27 (c) The court shall state the reasons for its sentence choice on
28 the record at the time of sentencing. The court also shall inform
29 the defendant that as part of the sentence after expiration of the
30 term he or she may be on parole for a period as provided in Section
31 3000.

32 (d) When a defendant subject to this section or subdivision (b)
33 of Section 1168 has been sentenced to be imprisoned in the state
34 prison and has been committed to the custody of the secretary, the
35 court may, within 120 days of the date of commitment on its own
36 motion, or at any time upon the recommendation of the secretary
37 or the Board of Parole Hearings, recall the sentence and
38 commitment previously ordered and resentence the defendant in
39 the same manner as if he or she had not previously been sentenced,
40 provided that the new sentence, if any, is no greater than the initial

1 sentence. The resentence under this subdivision shall apply the
2 sentencing rules of the Judicial Council to eliminate disparity of
3 sentences and to promote uniformity of sentencing. Credit shall
4 be given for time served.

5 (e) (1) Notwithstanding any other law and consistent with
6 paragraph (1) of subdivision (a), if the secretary or the Board of
7 Parole Hearings, or both, determine that a prisoner satisfies the
8 criteria set forth in paragraph (2), the secretary or the board may
9 recommend to the court that the prisoner's sentence be recalled.

10 (2) The court shall have the discretion to resentence or recall if
11 the court finds that the facts described in subparagraphs (A) and
12 (B) or subparagraphs (B) and (C) exist:

13 (A) The prisoner is terminally ill with an incurable condition
14 caused by an illness or disease that would produce death within
15 six months, as determined by a physician employed by the
16 department.

17 (B) The conditions under which the prisoner would be released
18 or receive treatment do not pose a threat to public safety.

19 (C) The prisoner is permanently medically incapacitated with
20 a medical condition that renders him or her permanently unable
21 to perform activities of basic daily living, and results in the prisoner
22 requiring 24-hour total care, including, but not limited to, coma,
23 persistent vegetative state, brain death, ventilator-dependency, ~~and~~
24 *or* loss of control of muscular or neurological function, and that
25 incapacitation did not exist at the time of the original sentencing.

26 The Board of Parole Hearings shall make findings pursuant to
27 this subdivision before making a recommendation for resentence
28 or recall to the court. This subdivision does not apply to a prisoner
29 sentenced to death or a term of life without the possibility of parole.

30 (3) Within 10 days of receipt of a positive recommendation by
31 the secretary or the board, the court shall hold a hearing to consider
32 whether the prisoner's sentence should be recalled.

33 (4) A physician employed by the department who determines
34 that a prisoner has six months or less to live shall notify the chief
35 medical officer of the prognosis. If the chief medical officer
36 concurs with the prognosis, he or she shall notify the warden.
37 Within 48 hours of receiving notification, the warden or the
38 warden's representative shall notify the prisoner of the recall and
39 resentencing procedures, and shall arrange for the prisoner to
40 designate a family member or other outside agent to be notified

1 as to the prisoner's medical condition and prognosis, and as to the
2 recall and resentencing procedures. If the inmate is deemed
3 mentally unfit, the warden or the warden's representative shall
4 contact the inmate's emergency contact and provide the information
5 described in paragraph (2).

6 (5) The warden or the warden's representative shall provide the
7 prisoner and his or her family member, agent, or emergency
8 contact, as described in paragraph (4), updated information
9 throughout the recall and resentencing process with regard to the
10 prisoner's medical condition and the status of the prisoner's recall
11 and resentencing proceedings.

12 (6) Notwithstanding any other provisions of this section, the
13 prisoner or his or her family member or designee may
14 independently request consideration for recall and resentencing
15 by contacting the chief medical officer at the prison or the
16 secretary. Upon receipt of the request, the chief medical officer
17 and the warden or the warden's representative shall follow the
18 procedures described in paragraph (4). If the secretary determines
19 that the prisoner satisfies the criteria set forth in paragraph (2), the
20 secretary or board may recommend to the court that the prisoner's
21 sentence be recalled. The secretary shall submit a recommendation
22 for release within 30 days in the case of inmates sentenced to
23 determinate terms and, in the case of inmates sentenced to
24 indeterminate terms, the secretary shall make a recommendation
25 to the Board of Parole Hearings with respect to the inmates who
26 have applied under this section. The board shall consider this
27 information and make an independent judgment pursuant to
28 paragraph (2) and make findings related thereto before rejecting
29 the request or making a recommendation to the court. This action
30 shall be taken at the next lawfully noticed board meeting.

31 (7) A recommendation for recall submitted to the court by the
32 secretary or the Board of Parole Hearings shall include one or more
33 medical evaluations, a postrelease plan, and findings pursuant to
34 paragraph (2).

35 (8) If possible, the matter shall be heard before the same judge
36 of the court who sentenced the prisoner.

37 (9) If the court grants the recall and resentencing application,
38 the prisoner shall be released by the department within 48 hours
39 of receipt of the court's order, unless a longer time period is agreed
40 to by the inmate. At the time of release, the warden or the warden's

1 representative shall ensure that the prisoner has each of the
2 following in his or her possession: a discharge medical summary,
3 full medical records, state identification, parole medications, and
4 all property belonging to the prisoner. After discharge, any
5 additional records shall be sent to the prisoner's forwarding
6 address.

7 (10) The secretary shall issue a directive to medical and
8 correctional staff employed by the department that details the
9 guidelines and procedures for initiating a recall and resentencing
10 procedure. The directive shall clearly state that a prisoner who is
11 given a prognosis of six months or less to live is eligible for recall
12 and resentencing consideration, and that recall and resentencing
13 procedures shall be initiated upon that prognosis.

14 (f) A sentence imposed under this article shall be subject to the
15 provisions of Sections 3000 and 3057 and other applicable
16 provisions of law.

17 (g) A sentence to state prison for a determinate term for which
18 only one term is specified, is a sentence to state prison under this
19 section.

20 (h) This section shall remain in effect only until January 1, 2009,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before that date, deletes or extends that date.

23 ~~SEC. 182.~~

24 *SEC. 181.* Section 1369.1 of the Penal Code is amended to
25 read:

26 1369.1. (a) As used in this chapter, for the sole purpose of
27 administering antipsychotic medication pursuant to a court order,
28 "treatment facility" includes a county jail. Upon the concurrence
29 of the county board of supervisors, the county mental health
30 director, and the county sheriff, the jail may be designated to
31 provide medically approved medication to defendants found to be
32 mentally incompetent and unable to provide informed consent due
33 to a mental disorder, pursuant to this chapter. In the case of Madera,
34 Napa, and Santa Clara Counties, the concurrence shall be with the
35 board of supervisors, the county mental health director, and the
36 county sheriff or the chief of corrections. The provisions of
37 Sections 1370 and 1370.01 shall apply to antipsychotic medications
38 provided in a county jail, provided, however, that the maximum
39 period of time a defendant may be treated in a treatment facility
40 pursuant to this section shall not exceed six months.

1 (b) The State Department of Mental Health shall report to the
2 Legislature on or before January 1, 2009, on all of the following:

3 (1) The number of defendants in the state who are incompetent
4 to stand trial.

5 (2) The resources available at state hospitals and local mental
6 health facilities, other than jails, for returning these defendants to
7 competence.

8 (3) Additional resources that are necessary to reasonably treat,
9 in a reasonable period of time, at the state and local levels,
10 excluding jails, defendants who are incompetent to stand trial.

11 (4) What, if any, statewide standards and organizations exist
12 concerning local treatment facilities that could treat defendants
13 who are incompetent to stand trial.

14 (5) Address the concerns regarding defendants who are
15 incompetent to stand trial who are currently being held in jail
16 awaiting treatment.

17 (c) This section does not abrogate or limit any provision of law
18 enacted to ensure the due process rights set forth in *Sell v. United*
19 *States* (2003) 539 U.S. 166.

20 (d) This section shall remain in effect only until January 1, 2010,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2010, deletes or extends that date.

23 ~~SEC. 183.~~

24 *SEC. 182.* Section 11062 of the Penal Code is amended to read:

25 11062. (a) The Department of Justice shall establish and chair
26 a task force to conduct a review of California's crime laboratory
27 system.

28 (b) The task force shall be known as the "Crime Laboratory
29 Review Task Force." The composition of the task force shall,
30 except as specified in paragraph (16), be comprised of one
31 representative of each of the following entities:

32 (1) The Department of Justice.

33 (2) The California Association of Crime Laboratory Directors.

34 (3) The California Association of Criminalists.

35 (4) The International Association for Identification.

36 (5) The American Society of Crime Laboratory Directors.

37 (6) The Department of the California Highway Patrol.

38 (7) The California State Sheriffs' Association, from a department
39 with a crime laboratory.

- 1 (8) The California District Attorneys Association, from an office
2 with a crime laboratory.
- 3 (9) The California Police Chiefs Association, from a department
4 with a crime laboratory.
- 5 (10) The California Peace Officers' Association.
- 6 (11) The California Public Defenders Association.
- 7 (12) A private criminal defense attorney organization.
- 8 (13) The Judicial Council, to be appointed by the Chief Justice.
- 9 (14) The Office of the Speaker of the Assembly.
- 10 (15) The Office of the President pro Tempore of the Senate.
- 11 (16) Two representatives to be appointed by the Governor.
- 12 (c) The task force shall review and make recommendations as
13 to how best to configure, fund, and improve the delivery of state
14 and local crime laboratory services in the future. To the extent
15 feasible, the review and recommendations shall include, but are
16 not limited to, addressing the following issues:
- 17 (1) With respect to organization and management of crime
18 laboratory services, consideration of the following:
- 19 (A) If the existing mix of state and local crime laboratories is
20 the most effective and efficient means to meet California's future
21 needs.
- 22 (B) Whether laboratories should be further consolidated. If
23 consolidation occurs, who should have oversight of crime
24 laboratories.
- 25 (C) If management responsibilities for some laboratories should
26 be transferred.
- 27 (D) Whether all laboratories should provide similar services.
- 28 (E) How other states have addressed similar issues.
- 29 (2) With respect to staff and training, consideration of the
30 following:
- 31 (A) How to address recruiting and retention problems of
32 laboratory staff.
- 33 (B) Whether educational and training opportunities are adequate
34 to supply the needs of fully trained forensic criminalists in the
35 future.
- 36 (C) Whether continuing education is available to ensure that
37 forensic science personnel are up-to-date in their fields of expertise.
- 38 (D) If crime laboratory personnel should be certified, and, if so,
39 the appropriate agency to assume this responsibility.

1 (E) The future educational role, if any, for the University of
2 California or the California State University systems.

3 (3) With respect to funding, consideration of the following:

4 (A) Whether the current method of funding laboratories is
5 predictable, stable, and adequate to meet future growth demands
6 and to provide accurate and timely testing results.

7 (B) The adequacy of salary structures to attract and retain
8 competent analysts and examiners.

9 (4) With respect to performance standards and equipment,
10 consideration of the following:

11 (A) Whether workload demands are being prioritized properly
12 and whether there are important workload issues not being
13 addressed.

14 (B) If existing laboratories have the necessary capabilities,
15 staffing, and equipment.

16 (C) If statewide standards should be developed for the
17 accreditation of forensic laboratories, including minimum staffing
18 levels, and if so, a determination regarding what entity should
19 serve as the sanctioning body.

20 (d) The task force also shall seek input from specialized law
21 enforcement disciplines, other state and local agencies, relevant
22 advocacy groups, and the public. The final report also shall include
23 a complete inventory of existing California crime laboratories.
24 This inventory shall contain sufficient details on staffing, workload,
25 budget, major instrumentation, and organizational placement within
26 the controlling agency.

27 (e) The first meeting of the task force shall occur no later than
28 December 9, 2007.

29 (f) On or before July 1, 2009, the task force shall submit a final
30 report of its findings to the Department of Finance, and to the
31 budget and public safety committees of both houses of the
32 Legislature.

33 ~~SEC. 184.~~

34 *SEC. 183.* Section 4584 of the Public Resources Code is
35 amended to read:

36 4584. Upon determining that the exemption is consistent with
37 the purposes of this chapter, the board may exempt from this
38 chapter, or portions thereof, a person engaged in forest management
39 whose activities are limited to any of the following:

- 1 (a) The cutting or removal of trees for the purpose of
2 constructing or maintaining a right-of-way for utility lines.
- 3 (b) The planting, growing, nurturing, shaping, shearing, removal,
4 or harvest of immature trees for Christmas trees or other ornamental
5 purposes or minor forest products, including fuelwood.
- 6 (c) The cutting or removal of dead, dying, or diseased trees of
7 any size.
- 8 (d) Site preparation.
- 9 (e) Maintenance of drainage facilities and soil stabilization
10 treatments.
- 11 (f) Timber operations on land managed by the Department of
12 Parks and Recreation.
- 13 (g) (1) The one-time conversion of less than three acres to a
14 nontimber use. A person, whether acting as an individual or as a
15 member of a partnership, or as an officer or employee of a
16 corporation or other legal entity, shall not obtain more than one
17 exemption pursuant to this subdivision in a five-year period. If a
18 partnership has as a member, or if a corporation or other legal
19 entity has as an officer or employee, a person who has received
20 this exemption within the past five years, whether as an individual
21 or as a member of a partnership, or as an officer or employee of a
22 corporation or other legal entity, then that partnership, corporation,
23 or other legal entity is not eligible for this exemption. "Person,"
24 for purposes of this subdivision, means an individual, partnership,
25 corporation, or other legal entity.
- 26 (2) (A) Notwithstanding Section 4554.5, the board shall adopt
27 regulations that become effective and operative on or before July
28 1, 2002, and do all of the following:
- 29 (i) Identify the required documentation of a bona fide intent to
30 complete the conversion that an applicant will need to submit in
31 order to be eligible for the exemption in paragraph (1).
- 32 (ii) Authorize the department to inspect the sites approved in
33 conversion applications that have been approved on or after January
34 1, 2002, in order to determine that the conversion was completed
35 within the two-year period described in subparagraph (B) of
36 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of
37 the California Code of Regulations.
- 38 (iii) Require the exemption under this subdivision to expire if
39 there is a change in timberland ownership. The person who
40 originally submitted an application for an exemption under this

1 subdivision shall notify the department of a change in timberland
2 ownership on or before five calendar days after a change in
3 ownership.

4 (iv) The board may adopt regulations allowing a waiver of the
5 five-year limitation described in paragraph (1) upon finding that
6 the imposition of the five-year limitation would impose an undue
7 hardship on the applicant for the exemption. The board may adopt
8 a process for an appeal of a denial of a waiver.

9 (B) The application form for the exemption pursuant to
10 paragraph (1) shall prominently advise the public that a violation
11 of the conversion exemption, including a conversion applied for
12 in the name of someone other than the person or entity
13 implementing the conversion in bona fide good faith, is a violation
14 of this chapter and penalties may accrue up to ten thousand dollars
15 (\$10,000) for each violation pursuant to Article 8 (commencing
16 with Section 4601).

17 (h) Easements granted by a right-of-way construction agreement
18 administered by the federal government if any timber sales and
19 operations within or affecting these areas are reviewed and
20 conducted pursuant to the National Environmental Policy Act of
21 1969 (42 U.S.C. Sec. 4321 et seq.).

22 (i) The cutting, removal, or sale of timber or other solid wood
23 forest products from the species *Taxus brevifolia* (Pacific yew),
24 if the known locations of any stands of this species three inches
25 and larger in diameter at breast height are identified in the
26 exemption notice submitted to the department. Nothing in this
27 subdivision is intended to authorize the peeling of bark from, or
28 the cutting or removal of, *Taxus brevifolia* within a watercourse
29 and lake protection zone, special treatment area, buffer zone, or
30 other area where timber harvesting is prohibited or otherwise
31 restricted pursuant to board rules.

32 (j) (1) The cutting or removal of trees in compliance with
33 Sections 4290 and 4291; that eliminates the vertical continuity of
34 vegetative fuels and the horizontal continuity of tree crowns for
35 the purpose of reducing flammable materials and maintaining a
36 fuel break for a distance of not more than 150 feet on each side
37 from an approved and legally permitted structure that complies
38 with the California Building Standards Code, when that cutting or
39 removal is conducted in compliance with this subdivision. For
40 purposes of this subdivision, an “approved and legally permitted

1 structure” includes only structures that are designed for human
2 occupancy and garages, barns, stables, and structures used to
3 enclose fuel tanks.

4 (2) (A) The cutting or removal of trees pursuant to this
5 subdivision is limited to cutting or removal that will result in a
6 reduction in the rate of fire spread, fire duration and intensity, fuel
7 ignitability, or ignition of the tree crowns and shall be in
8 accordance with any regulations adopted by the board pursuant to
9 this section.

10 (B) Trees shall not be cut or removed pursuant to this
11 subdivision by the clearcutting regeneration method, by the seed
12 tree removal step of the seed tree regeneration method, or by the
13 shelterwood removal step of the shelterwood regeneration method.

14 (3) (A) Surface fuels, including logging slash and debris, low
15 brush, and deadwood, that could promote the spread of wildfire
16 shall be chipped, burned, or otherwise removed from all areas of
17 timber operations within 45 days from the date of commencement
18 of timber operations pursuant to this subdivision.

19 (B) (i) All surface fuels that are not chipped, burned, or
20 otherwise removed from all areas of timber operations within 45
21 days from the date of commencement of timber operations may
22 be determined to be a nuisance and subject to abatement by the
23 department or the city or county having jurisdiction.

24 (ii) The costs incurred by the department, city, or county, as the
25 case may be, to abate the nuisance upon any parcel of land subject
26 to the timber operations, including, but not limited to, investigation,
27 boundary determination, measurement, and other related costs,
28 may be recovered by special assessment and lien against the parcel
29 of land by the department, city, or county. The assessment may
30 be collected at the same time and in the same manner as ordinary
31 ad valorem taxes, and shall be subject to the same penalties and
32 the same procedure and sale in case of delinquency as is provided
33 for ad valorem taxes.

34 (4) All timber operations conducted pursuant to this subdivision
35 shall conform to applicable city or county general plans, city or
36 county implementing ordinances, and city or county zoning
37 ordinances. This paragraph does not authorize the cutting, removal,
38 or sale of timber or other solid wood forest products within an area
39 where timber harvesting is prohibited or otherwise restricted
40 pursuant to the rules or regulations adopted by the board.

1 (5) (A) The board shall adopt regulations, initially as emergency
2 regulations in accordance with subparagraph (B), that the board
3 considers necessary to implement and to obtain compliance with
4 this subdivision.

5 (B) The emergency regulations adopted pursuant to
6 subparagraph (A) shall be adopted in accordance with the
7 Administrative Procedure Act (Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code). The adoption of emergency regulations shall be deemed to
10 be an emergency and necessary for the immediate preservation of
11 the public peace, health, and safety, or general welfare.

12 (k) (1) Until January 1, 2013, the harvesting of trees, limited
13 to those trees that eliminate the vertical continuity of vegetative
14 fuels and the horizontal continuity of tree crowns, for the purpose
15 of reducing the rate of fire spread, duration and intensity, fuel
16 ignitability, or ignition of tree crowns.

17 (2) The board may authorize an exemption pursuant to paragraph
18 (1) only if the tree harvesting will decrease fuel continuity and
19 increase the quadratic mean diameter of the stand, and the tree
20 harvesting area will not exceed 300 acres.

21 (3) The notice of exemption, which shall be known as the Forest
22 Fire Prevention Exemption, may be authorized only if all of the
23 conditions specified in paragraphs (4) to (10), inclusive, are met.

24 (4) A registered professional forester shall prepare the notice
25 of exemption and submit it to the director, and include a map of
26 the area of timber operations that complies with the requirements
27 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision
28 (x) of Section 1034 of Title 14 of the California Code of
29 Regulations.

30 (5) (A) The registered professional forester who submits the
31 notice of exemption shall include a description of the preharvest
32 stand structure and a statement of the postharvest stand stocking
33 levels.

34 (B) The level of residual stocking shall be consistent with
35 maximum sustained production of high-quality timber products.
36 The residual stand shall consist primarily of healthy and vigorous
37 dominant and codominant trees from the preharvest stand. Stocking
38 shall not be reduced below the standards required by any of the
39 following provisions that apply to the exemption at issue:

1 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
2 (1) of subdivision (a) of Section 913.3 of Title 14 of the California
3 Code of Regulations.

4 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
5 (1) of subdivision (a) of Section 933.3 of Title 14 of the California
6 Code of Regulations.

7 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
8 (1) of subdivision (a) of Section 953.3 of Title 14 of the California
9 Code of Regulations.

10 (C) If the preharvest dominant and codominant crown canopy
11 is occupied by trees less than 14 inches in diameter at breast height,
12 a minimum of 100 trees over four inches in diameter at breast
13 height shall be retained per acre for Site I, II, and III lands, and a
14 minimum of 75 trees over four inches in diameter at breast height
15 shall be retained per acre for Site IV and V lands.

16 (6) (A) The registered professional forester who submits the
17 notice shall include selection criteria for the trees to be harvested
18 or the trees to be retained. In the development of fuel reduction
19 prescriptions, the registered professional forester should consider
20 retaining habitat elements, where feasible, including, but not
21 limited to, ground level cover necessary for the long-term
22 management of local wildlife populations.

23 (B) All trees that are harvested or all trees that are retained shall
24 be marked or sample marked by or under the supervision of a
25 registered professional forester before felling operations begin.
26 The board shall adopt regulations for sample marking for this
27 section in Title 14 of the California Code of Regulations. Sample
28 marking shall be limited to homogenous forest stand conditions
29 typical of plantations.

30 (7) (A) The registered professional forester submitting the
31 notice, upon submission of the notice, shall provide a confidential
32 archaeology letter that includes all the information required by
33 any of the following provisions that apply to the exemption at
34 issue:

35 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
36 of Section 929.1 of Title 14 of the California Code of Regulations,
37 and include site records if required pursuant to subdivision (g) of
38 that section or pursuant to Section 929.5 of Title 14 of the
39 California Code of Regulations.

1 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
2 of Section 949.1 of Title 14 of the California Code of Regulations,
3 and include site records if required pursuant to subdivision (g) of
4 that section or pursuant to Section 949.5 of Title 14 of the
5 California Code of Regulations.

6 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
7 of Section 969.1 of Title 14 of the California Code of Regulations,
8 and include site records if required pursuant to subdivision (g) of
9 that section or pursuant to Section 969.5 of Title 14 of the
10 California Code of Regulations.

11 (B) The director shall submit a complete copy of the confidential
12 archaeological letter and two copies of all required archaeological
13 or historical site records to the appropriate Information Center of
14 the California Historical Resource Information System within 30
15 days from the date of notice submittal to the director. Before
16 submitting the notice to the director, the registered professional
17 forester shall send a copy of the notice to Native Americans, as
18 defined in Section 895.1 of Title 14 of the California Code of
19 Regulations.

20 (8) Only trees less than 18 inches in stump diameter, measured
21 at eight inches above ground level, may be removed. However,
22 within 500 feet of a legally permitted structure, or in an area
23 prioritized as a shaded fuel break in a community wildfire
24 protection plan approved by a public fire agency, if the goal of
25 fuel reduction cannot be achieved by removing trees less than 18
26 inches in stump diameter, trees less than 24 inches in stump
27 diameter may be removed if that removal complies with this section
28 and is necessary to achieve the goal of fuel reduction. A fuel
29 reduction effort shall not violate the canopy closure regulations
30 adopted by the board on June 10, 2004, and as those regulations
31 may be amended.

32 (9) (A) This subparagraph applies to areas within 500 feet of
33 a legally permitted structure and in areas prioritized as a shaded
34 fuel break in a community wildfire protection plan approved by a
35 public fire agency. The board shall adopt regulations for the
36 treatment of surface and ladder fuels in the harvest area, including
37 logging slash and debris, low brush, small trees, and deadwood,
38 that could promote the spread of wildfire. The regulations adopted
39 by the board shall be consistent with the standards in the board's
40 "General Guidelines for Creating Defensible Space" described in

1 Section 1299 of Title 14 of the California Code of Regulations.
2 Postharvest standards shall include vertical spacing between fuels,
3 horizontal spacing between fuels, maximum depth of dead ground
4 surface fuels, and treatment of standing dead fuels, as follows:

5 (i) Ladder and surface fuels shall be spaced to achieve a vertical
6 clearance distance of eight feet or three times the height of the
7 postharvest fuels, whichever is the greater distance, measured from
8 the base of the live crown of the postharvest dominant and
9 codominant trees to the top of the surface fuels.

10 (ii) Horizontal spacing shall achieve a minimum separation of
11 two to six times the height of the postharvest fuels, increasing
12 spacing with increasing slope, measured from the outside branch
13 edges of the fuels.

14 (iii) Dead surface fuel depth shall be less than nine inches.

15 (iv) Standing dead or dying trees and brush generally shall be
16 removed. That material, along with live vegetation associated with
17 the dead vegetation, may be retained for wildlife habitat when
18 isolated from other vegetation.

19 (B) This subparagraph applies to all areas not described in
20 subparagraph (A).

21 (i) The postharvest stand shall contain no more than 200 trees
22 over three inches in diameter per acre.

23 (ii) Vertical spacing shall be achieved by treating dead fuels to
24 a minimum clearance distance of eight feet measured from the
25 base of the live crown of the postharvest dominant and codominant
26 trees to the top of the dead surface fuels.

27 (iii) All logging slash created by the timber operations shall be
28 treated to achieve a maximum postharvest depth of nine inches
29 above the ground.

30 (C) The standards required by subparagraphs (A) and (B) shall
31 be achieved on approximately 80 percent of the treated area. The
32 treatment shall include chipping, removing, or other methods
33 necessary to achieve the standards. Ladder and surface fuel
34 treatments, for any portion of the exemption area where timber
35 operations have occurred, shall be done within 120 days from the
36 start of timber operations on that portion of the exemption area or
37 by April 1 of the year following surface fuel creation on that
38 portion of the exemption area if the surface fuels are burned.

39 (10) Timber operations shall comply with the requirements of
40 paragraphs (1) to (10), inclusive, of subdivision (b) of Section

1 1038 of Title 14 of the California Code of Regulations. Timber
2 operations in the Lake Tahoe region shall comply instead with the
3 requirements of paragraphs (1) to (16), inclusive, of subdivision
4 (f) of Section 1038 of Title 14 of the California Code of
5 Regulations.

6 (11) After the timber operations are complete, the department
7 shall conduct an onsite inspection to determine compliance with
8 this subdivision and whether appropriate enforcement action should
9 be initiated.

10 ~~SEC. 185.~~

11 *SEC. 184.* Section 5818.2 of the Public Resources Code is
12 amended to read:

13 5818.2. (a) (1) The funds in the Coastal Wetlands Fund may
14 be expended by the Department of Fish and Game and the State
15 Coastal Conservancy, upon appropriation by the Legislature, for
16 the maintenance of coastal wetlands property owned by the state,
17 a conservancy of the state, a local government agency, or a
18 nonprofit organization.

19 (2) The funds in the Coastal Wetlands Fund may be expended
20 by the state pursuant to this section in the form of grants.

21 (3) An applicant may apply to the State Coastal Conservancy
22 for a grant pursuant to the grant application procedures in Division
23 21 (commencing with Section 31000) to perform maintenance of
24 coastal wetlands property owned by the state, a conservancy of
25 the state, a local government agency, or a nonprofit organization.

26 (b) The Department of Fish and Game and the State Coastal
27 Conservancy may accept contributions to the Coastal Wetlands
28 Fund. The sources of contributions that may be accepted include,
29 but are not limited to, private individuals and organizations,
30 nonprofit organizations, and federal, state, and local agencies
31 including special districts. The contributions accepted may include
32 moneys identified pursuant to the California Environmental Quality
33 Act (Division 13 (commencing with Section 21000)) or the
34 National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321
35 et seq.) as acceptable mitigation for development projects. The
36 Department of Fish and Game and the State Coastal Conservancy
37 shall deposit a contribution accepted pursuant to this subdivision
38 in the Coastal Wetlands Fund, subject to the requirements of
39 Section 5818.1.

1 ~~SEC. 186.~~

2 *SEC. 185.* Section 25402.5.4 of the Public Resources Code is
3 amended to read:

4 25402.5.4. (a) On or before December 31, 2008, the
5 commission shall adopt minimum energy efficiency standards for
6 all general purpose lights on a schedule specified in the regulations.
7 The regulations, in combination with other programs and activities
8 affecting lighting use in the state, shall be structured to reduce
9 average statewide electrical energy consumption by not less than
10 50 percent from the 2007 levels for indoor residential lighting and
11 by not less than 25 percent from the 2007 levels for indoor
12 commercial and outdoor lighting, by 2018.

13 (b) The commission shall make recommendations to the
14 Governor and the Legislature regarding how to continue reductions
15 in electrical consumption for lighting beyond 2018.

16 (c) The commission may establish programs to encourage the
17 sale in this state of general purpose lights that meet or exceed the
18 standards set forth in subdivision (a).

19 (d) (1) Except as provided in paragraph (2), the Department of
20 General Services, and all other state agencies, as defined in Section
21 12200 of the Public Contract Code, in coordination with the
22 commission, shall cease purchasing general purpose lights that do
23 not meet the standards adopted pursuant to subdivision (a), within
24 two years of those standards being adopted.

25 (2) The Department of General Services, and all other state
26 agencies, as defined in Section 12200 of the Public Contract Code,
27 in coordination with the commission shall cease purchasing general
28 purpose lights with an appearance that is historically appropriate
29 for the facilities in which the lights are being used, and that do not
30 meet the standards adopted pursuant to subdivision (a) within four
31 years of those standards being adopted.

32 (e) It is the intent of the Legislature to encourage the Regents
33 of the University of California, in coordination with the
34 commission, to cease purchasing general purpose lights that do
35 not meet the standards adopted pursuant to subdivision (a), within
36 two years of those standards being adopted.

37 (f) (1) (A) For purposes of this section, “general purpose lights”
38 means lamps, bulbs, tubes, or other electric devices that provide
39 functional illumination for indoor residential, indoor commercial,
40 and outdoor use.

1 (B) General purpose lights do not include any of the following
2 types of specialty lighting: appliance, black light, bug, colored,
3 infrared, left-hand thread, marine, marine signal service, mine
4 service, plant light, reflector, rough service, shatter resistant, sign
5 service, silver bowl, showcase, three-way, traffic signal, and
6 vibration service or vibration resistant.

7 (2) The commission may, after one or more public workshops,
8 with public notice and an opportunity for all interested parties to
9 comment, provide for inclusion of a particular type of specialty
10 light in its energy efficiency standards applicable to general
11 purpose lighting, if it finds that there has been a significant increase
12 in sales of that particular type of particular specialty light due to
13 the use of that specialty light in general purpose lighting
14 applications.

15 (3) General purpose lights do not include lights needed to
16 provide special-needs lighting for individuals with exceptional
17 needs.

18 ~~SEC. 187.~~

19 *SEC. 186.* Section 25402.10 of the Public Resources Code is
20 amended to read:

21 25402.10. (a) On and after January 1, 2009, electric and gas
22 utilities shall maintain records of the energy consumption data of
23 all nonresidential buildings to which they provide service. This
24 data shall be maintained, in a format compatible for uploading to
25 the United States Environmental Protection Agency's ENERGY
26 STAR Portfolio Manager, for at least the most recent 12 months.

27 (b) On and after January 1, 2009, upon the written authorization
28 or secure electronic authorization of a nonresidential building
29 owner or operator, an electric or gas utility shall upload all of the
30 energy consumption data for the account specified for a building
31 to the United States Environmental Protection Agency's ENERGY
32 STAR Portfolio Manager in a manner that preserves the
33 confidentiality of the customer.

34 (c) In carrying out this section, an electric or gas utility may use
35 any method for providing the specified data in order to maximize
36 efficiency and minimize overall program cost, and is encouraged
37 to work with the United States Environmental Protection Agency
38 and customers in developing reasonable reporting options.

39 (d) On and after January 1, 2010, an owner or operator of a
40 nonresidential building shall disclose the United States

1 Environmental Protection Agency’s ENERGY STAR Portfolio
2 Manager benchmarking data and ratings for the most recent
3 12-month period to a prospective buyer, lessee of the entire
4 building, or lender that would finance the entire building. If the
5 data is delivered to a prospective buyer, lessee, or lender, a property
6 owner, operator, or his or her agent is not required to provide
7 additional information, and the information shall be deemed to be
8 adequate to inform the prospective buyer, lessee, or lender
9 regarding the United States Environmental Protection Agency’s
10 ENERGY STAR Portfolio Manager benchmarking data and ratings
11 for the most recent 12-month period for the building that is being
12 sold, leased, financed, or refinanced.

13 (e) Notwithstanding subdivision (d), this section does not
14 increase or decrease the duties, if any, of a property owner,
15 operator, or his or her broker or agent under this chapter or alters
16 the duty of a seller, agent, or broker to disclose the existence of a
17 material fact affecting the real property.

18 ~~SEC. 188.~~

19 *SEC. 187.* Section 30253 of the Public Resources Code is
20 amended to read:

21 30253. New development shall do all of the following:

22 (a) Minimize risks to life and property in areas of high geologic,
23 flood, and fire hazard.

24 (b) Assure stability and structural integrity, and neither create
25 nor contribute significantly to erosion, geologic instability, or
26 destruction of the site or surrounding area or in any way require
27 the construction of protective devices that would substantially alter
28 natural landforms along bluffs and cliffs.

29 (c) Be consistent with requirements imposed by an air pollution
30 control district or the State Air Resources Board as to each
31 particular development.

32 (d) Minimize energy consumption and vehicle miles traveled.

33 (e) Where appropriate, protect special communities and
34 neighborhoods that, because of their unique characteristics, are
35 popular visitor destination points for recreational uses.

36 ~~SEC. 189.~~

37 *SEC. 188.* Section 30327.5 of the Public Resources Code is
38 amended to read:

39 30327.5. (a) An interested person shall not give, convey, or
40 make available gifts aggregating more than ten dollars (\$10) in a

1 calendar month to a commissioner or a member of the
2 commission's staff.

3 (b) A commissioner or member of the commission's staff shall
4 not accept gifts aggregating more than ten dollars (\$10) in a
5 calendar month from an interested person.

6 (c) For purposes of this section, "interested person" shall have
7 the same meaning as the term is defined in Section 30323.

8 (d) For purposes of this section, "gift" means, except as provided
9 in subdivision (e), a payment, as defined in Section 82044 of the
10 Government Code, that confers a personal benefit on the recipient,
11 to the extent that consideration of equal or greater value is not
12 received and includes a rebate or discount in the price of anything
13 of value unless the rebate or discount is made in the regular course
14 of business to members of the public without regard to official
15 status. A person, other than a defendant in a criminal action, who
16 claims that a payment is not a gift by reason of receipt of
17 consideration has the burden of proving that the consideration
18 received is of equal or greater value.

19 (e) For purposes of this section, "gift" does not include any of
20 the following:

21 (1) A gift that is not used and that, within 30 days after receipt,
22 is either returned to the donor or delivered to a nonprofit entity
23 exempt from taxation under Section 501(c)(3) of the Internal
24 Revenue Code, without being claimed as a charitable contribution
25 for tax purposes.

26 (2) A gift from an individual's spouse, child, parent,
27 grandparent, grandchild, brother, sister, parent-in-law,
28 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first
29 cousin, or the spouse of one of those individuals. However, a gift
30 from one of those people shall be considered a gift if the donor is
31 acting as an agent or intermediary for a person not covered in this
32 paragraph.

33 (3) A cost associated with the provision of evidentiary material
34 provided to the commission and its staff.

35 (4) An educational or training activity that has received prior
36 approval from the commission.

37 (5) A field trip or site inspection that is made available on equal
38 terms and conditions to all commissioners and appropriate staff.

39 (6) A reception or purely social event that is not offered in
40 connection with or is not intended to influence a decision or action

1 of the commission and that is open to all commissioners, members
2 of the staff, and members of the public and press.

3 ~~SEC. 190.~~

4 *SEC. 189.* Section 30327.6 of the Public Resources Code is
5 amended to read:

6 30327.6. (a) (1) Except as provided in paragraph (2), a person
7 who for compensation attempts to influence or affect the outcome
8 of a commission decision or action and who violates Section
9 30327.5 may, in addition to any other applicable penalty, be barred
10 from any activity seeking to influence or affect the outcome of a
11 commission decision or action for a period of up to one year from
12 the date of the finding of the violation. Each violation shall be
13 grounds for the person being barred from any activity seeking to
14 influence or affect a commission decision or action for an
15 additional year from the date of conviction.

16 (2) This section does not prohibit an individual from
17 representing himself or herself in seeking to influence or affect
18 the outcome of a commission decision or action if that individual
19 is acting solely on his or her own personal behalf and not on behalf
20 of another person or entity.

21 (b) A person who violates Section 30327.5 shall, in addition to
22 any other applicable penalty, be subject to a civil fine not to exceed
23 five hundred dollars (\$500) for each violation.

24 ~~SEC. 191.~~

25 *SEC. 190.* Section 31408 of the Public Resources Code is
26 amended to read:

27 31408. (a) The conservancy shall, in consultation with the
28 Department of Parks and Recreation, the California Coastal
29 Commission, and the Department of Transportation, coordinate
30 the development of the California Coastal Trail.

31 (b) To the extent feasible, and consistent with their individual
32 mandates, each agency, board, department, or commission of the
33 state with property interests or regulatory authority in coastal areas
34 shall cooperate with the conservancy with respect to planning and
35 making lands available for completion of the trail, including
36 constructing trail links, placing signs, and managing the trail.

37 ~~SEC. 192.~~

38 *SEC. 191.* Section 35615 of the Public Resources Code is
39 amended to read:

40 35615. The council shall do all of the following:

1 (a) (1) Coordinate activities of state agencies; that are related
2 to the protection and conservation of coastal waters and ocean
3 ecosystems; to improve the effectiveness of state efforts to protect
4 ocean resources within existing fiscal limitations, consistent with
5 Sections 35510 and 35515.

6 (2) Establish policies to coordinate the collection, evaluation,
7 and sharing of scientific data related to coastal and ocean resources
8 among agencies.

9 (3) (A) Establish a science advisory team of distinguished
10 scientists to assist the council in meeting the purposes of this
11 division. At the request of the council, the science advisory team
12 may convene to identify, develop, and prioritize subjects and
13 questions for research or investigation, and review and evaluate
14 results of research or investigations to provide information for the
15 council's activities.

16 (B) The science advisory team shall include scientists from a
17 range of disciplines that are a part of the council's purview.

18 (C) The science advisory team shall provide an independent
19 and timely analysis of reports and studies, identifying areas of
20 scientific consensus or uncertainty, using the best available science
21 by drawing on state, national, and international experts.

22 (D) Scientists selected as members of the science advisory team
23 shall serve without compensation, except for reimbursement of
24 expenses and subject to the terms of an existing contract with the
25 state.

26 (4) Contract with the California Ocean Science Trust and other
27 nonprofit organizations, ocean science institutes, academic
28 institutions, or others that have experience in conducting the
29 scientific and educational tasks that are required by the council.

30 (5) Transmit the results of research and investigations to state
31 agencies to provide information for policy decisions.

32 (6) Identify and recommend to the Legislature changes in law
33 needed to achieve the goals of this section.

34 (b) (1) Identify changes in federal law and policy necessary to
35 achieve the goals of this division and to improve protection,
36 conservation, and restoration of ocean ecosystems in federal and
37 state waters off the state's coast.

38 (2) Recommend to the Governor and the Legislature actions the
39 state should take to encourage those changes in federal law and
40 policy.

1 ~~SEC. 193.~~

2 *SEC. 192.* Section 40117 of the Public Resources Code is
3 amended to read:

4 40117. “Gasification” means a technology that uses a
5 noncombustion thermal process to convert solid waste to a clean
6 burning fuel for the purpose of generating electricity, and that, at
7 minimum, meets all of the following criteria:

8 (a) The technology does not use air or oxygen in the conversion
9 process, except ambient air to maintain temperature control.

10 (b) The technology produces no discharges of air contaminants
11 or emissions, including greenhouse gases, as defined in subdivision
12 (g) of Section 38505 of the Health and Safety Code.

13 (c) The technology produces no discharges to surface or
14 groundwaters of the state.

15 (d) The technology produces no hazardous waste.

16 (e) To the maximum extent feasible, the technology removes
17 all recyclable materials and marketable green waste compostable
18 materials from the solid waste stream prior to the conversion
19 process and the owner or operator of the facility certifies that those
20 materials will be recycled or composted.

21 (f) The facility where the technology is used is in compliance
22 with all applicable laws, regulations, and ordinances.

23 (g) The facility certifies to the board that any local agency
24 sending solid waste to the facility is in compliance with this
25 division and has reduced, recycled, or composted solid waste to
26 the maximum extent feasible, and the board makes a finding that
27 the local agency has diverted at least 30 percent of all solid waste
28 through source reduction, recycling, and composting.

29 ~~SEC. 194.~~

30 *SEC. 193.* Section 353.1 of the Public Utilities Code is amended
31 to read:

32 353.1. As used in this article, “distributed energy resources”
33 means electric generation technology that meets all of the following
34 criteria:

35 (a) Commences initial operation between May 1, 2001, and
36 June 1, 2003, except that gas-fired distributed energy resources
37 that are not operated in a combined heat and power application
38 shall commence operation no later than September 1, 2002.

39 (b) Is located within a single facility.

40 (c) Is five megawatts or smaller in aggregate capacity.

1 (d) Serves onsite loads or over-the-fence transactions allowed
2 under Sections 216 and 218.

3 (e) Is powered by any fuel other than diesel.

4 (f) Complies with emission standards and guidance adopted by
5 the State Air Resources Board pursuant to Sections 41514.9 and
6 41514.10 of the Health and Safety Code. Prior to the adoption of
7 those standards and guidance, for the purpose of this article,
8 distributed energy resources shall meet emission levels equivalent
9 to nine parts per million oxides of nitrogen, or the equivalent
10 standard taking into account efficiency as determined by the State
11 Air Resources Board, averaged over a three-hour period, or best
12 available control technology for the applicable air district,
13 whichever is lower, except for distributed generation units that
14 displace and therefore significantly reduce emissions from natural
15 gas flares or reinjection compressors, as determined by the State
16 Air Resources Board. These units shall comply with the applicable
17 best available control technology as determined by the air pollution
18 control district or air quality management district in which they
19 are located.

20 ~~SEC. 195.~~

21 *SEC. 194.* Section 399.12 of the Public Utilities Code is
22 amended to read:

23 399.12. For purposes of this article, the following terms have
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the
26 generation of electricity that uses only the hydroelectric potential
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
28 manmade conduit that is operated to distribute water for a
29 beneficial use.

30 (b) “Delivered” and “delivery” have the same meaning as
31 provided in subdivision (a) of Section 25741 of the Public
32 Resources Code.

33 (c) “Eligible renewable energy resource” means an electric
34 generating facility that meets the definition of “in-state renewable
35 electricity generation facility” in subdivision (b) of Section 25741
36 of the Public Resources Code, subject to the following limitations:

37 (1) (A) An existing small hydroelectric generation facility of
38 30 megawatts or less shall be eligible only if a retail seller owned
39 or procured the electricity from the facility as of December 31,
40 2005. A new hydroelectric facility is not an eligible renewable

1 energy resource if it will cause an adverse impact on instream
2 beneficial uses or cause a change in the volume or timing of
3 streamflow.

4 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
5 facility of 30 megawatts or less that commenced operation before
6 January 1, 2006, is an eligible renewable energy resource. A
7 conduit hydroelectric facility of 30 megawatts or less that
8 commences operation after December 31, 2005, is an eligible
9 renewable energy resource so long as it does not cause an adverse
10 impact on instream beneficial uses or cause a change in the volume
11 or timing of streamflow.

12 (2) A facility engaged in the combustion of municipal solid
13 waste shall not be considered an eligible renewable energy resource
14 unless it is located in Stanislaus County and was operational prior
15 to September 26, 1996.

16 (d) “Energy Commission” means the State Energy Resources
17 Conservation and Development Commission.

18 (e) “Local publicly owned electric utility” has the same meaning
19 as provided in subdivision (d) of Section 9604.

20 (f) “Procure” means that a retail seller receives delivered
21 electricity generated by an eligible renewable energy resource that
22 it owns or for which it has entered into an electricity purchase
23 agreement. This article is not intended to imply that the purchase
24 of electricity from third parties in a wholesale transaction is the
25 preferred method of fulfilling a retail seller’s obligation to comply
26 with this article.

27 (g) “Renewables portfolio standard” means the specified
28 percentage of electricity generated by eligible renewable energy
29 resources that a retail seller is required to procure pursuant to this
30 article.

31 (h) (1) “Renewable energy credit” means a certificate of proof,
32 issued through the accounting system established by the Energy
33 Commission pursuant to Section 399.13, that one unit of electricity
34 was generated and delivered by an eligible renewable energy
35 resource.

36 (2) “Renewable energy credit” includes all renewable and
37 environmental attributes associated with the production of
38 electricity from the eligible renewable energy resource, except for
39 an emission reduction credit issued pursuant to Section 40709 of
40 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created
2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy
4 resource attributable to the use of nonrenewable fuels, beyond a
5 de minimis quantity, as determined by the Energy Commission,
6 shall result in the creation of a renewable energy credit.

7 (i) “Retail seller” means an entity engaged in the retail sale of
8 electricity to end-use customers located within the state, including
9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall
12 institute a rulemaking to determine the manner in which a
13 community choice aggregator will participate in the renewables
14 portfolio standard program subject to the same terms and conditions
15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,
17 for all sales of electricity to customers beginning January 1, 2006.
18 The commission shall institute a rulemaking to determine the
19 manner in which electric service providers will participate in the
20 renewables portfolio standard program. The electric service
21 provider shall be subject to the same terms and conditions
22 applicable to an electrical corporation pursuant to this article. This
23 paragraph shall not impair a contract entered into between an
24 electric service provider and a retail customer prior to the
25 suspension of direct access by the commission pursuant to Section
26 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology
29 or producing electricity consistent with subdivision (b) of Section
30 218.

31 (B) The Department of Water Resources acting in its capacity
32 pursuant to Division 27 (commencing with Section 80000) of the
33 Water Code.

34 (C) A local publicly owned electric utility.

35 ~~SEC. 196.~~

36 *SEC. 195.* Section 884.5 of the Public Utilities Code is amended
37 to read:

38 884.5. (a) This section shall apply to all customers eligible to
39 receive discounts for telecommunications services under the federal
40 Universal Service E-rate program administered by the Schools and

1 Libraries Division of the Universal Service Administrative
2 Company that also apply for discounts on telecommunications
3 services provided through the California Teleconnect Fund
4 Administrative Committee Fund program pursuant to subdivision
5 (a) of Section 280.

6 (b) A teleconnect discount shall be applied after applying an
7 E-rate discount. The commission shall first apply an E-rate
8 discount, regardless of whether the customer has applied for an
9 E-rate discount or has been approved, if the customer, in the
10 determination of the commission, meets the eligibility requirements
11 for an E-rate discount.

12 (c) Notwithstanding subdivision (b), the teleconnect discount
13 shall be applied without regard to an E-rate discount for a school
14 district that meets the conditions specified for compensation
15 pursuant to Article 4 (commencing with Section 42280) of Chapter
16 7 of Part 24 of Division 3 of Title 2 of the Education Code, unless
17 that school district has applied for, and been approved to receive,
18 the E-rate discount.

19 (d) In establishing a discount under the California Teleconnect
20 Fund Administrative Committee Fund program, the commission
21 shall give priority to bridging the “digital divide” by encouraging
22 expanded access to state-of-the-art technologies for rural,
23 inner-city, low-income, and disabled Californians.

24 (e) As used in this section:

25 (1) “E-rate discount” means an actual discount under the E-rate
26 program, or a representative discount figure as determined by the
27 commission.

28 (2) “E-rate program” means the federal Universal Service E-rate
29 program administered by the Schools and Libraries Division of
30 the Universal Service Administrative Company.

31 (3) “Teleconnect discount” means a discount on
32 telecommunications services provided through the California
33 Teleconnect Fund Administrative Committee Fund program set
34 forth in subdivision (a) of Section 280.

35 ~~SEC. 197.~~

36 *SEC. 196.* Section 2829 of the Public Utilities Code is amended
37 to read:

38 2829. (a) For purposes of this section, the following terms
39 have the following meanings:

1 (1) “EBMUD” means the East Bay Municipal Utility District
2 organized and operating pursuant to Division 6 (commencing with
3 Section 11501).

4 (2) “Environmental attributes” associated with the generation
5 of electricity include the credits, benefits, emissions reductions,
6 environmental air quality credits, and emissions reduction credits,
7 offsets, and allowances, however entitled, resulting from the
8 avoidance of the emissions of any gas, chemical, or other substance
9 attributable to an electricity generation facility.

10 (b) To ensure that no electrical corporation operates its
11 monopoly transmission and distribution system in a manner that
12 impedes the ability of the EBMUD to reduce its electricity costs
13 through the delivery of electricity generated by EBMUD, an
14 electrical corporation shall meet the requirements of this section.

15 (c) An electrical corporation that owns and operates transmission
16 and distribution facilities that deliver electricity at one or more
17 locations to the EBMUD’s system shall, upon request by EBMUD,
18 and without discrimination or delay, use the same facilities to
19 deliver electricity generated by EBMUD. EBMUD may elect to
20 designate specific hydroelectric generation facilities owned by
21 EBMUD for the generation of electricity to be delivered to
22 EBMUD, if the following conditions are met:

23 (1) The amount of all electricity delivered to the electric grid
24 by the designated EBMUD hydroelectric generation is the property
25 of EBMUD.

26 (2) Ownership and use of the environmental attributes associated
27 with the electricity delivered to the electric grid by
28 EBMUD-designated hydroelectric generation is retained by
29 EBMUD.

30 (d) (1) No rule, order, or tariff of the commission implementing
31 direct transactions is applicable to electricity generated by
32 EBMUD, that is delivered to EBMUD for its own use that is
33 transported over the transmission and distribution system of an
34 electrical corporation, pursuant to an election made by EBMUD
35 pursuant to subdivision (c).

36 (2) Sections 365 and 366 are not applicable to electricity
37 generated by EBMUD, that is delivered to EBMUD for its own
38 use that is transported over the transmission and distribution system
39 of an electrical corporation, pursuant to an election made by
40 EBMUD pursuant to subdivision (c).

1 (e) To compensate an electrical corporation for the use of its
2 facilities, EBMUD shall pay applicable rates approved by the
3 commission for distribution, or distribution and transmission, or
4 any transmission rates as required under federal law.

5 (f) On or before January 1, 2009, each electrical corporation
6 that owns and operates transmission and distribution facilities that
7 deliver electricity at one or more locations to the EBMUD system
8 shall file an advice letter with the commission that complies with
9 this section. The commission, within 150 days of the date of filing
10 of the advice letter, shall approve the advice letter or specify
11 conforming changes to be made by the electrical corporation, to
12 be filed in an amended advice letter within 60 days.

13 (g) The commission shall ensure that the delivery of electricity
14 from EBMUD-designated hydroelectric generation to the EBMUD
15 service territory pursuant to this section does not result in a shifting
16 of costs to the bundled service customers of an electrical
17 corporation, either immediately or over time.

18 ~~SEC. 198.~~

19 *SEC. 197.* Section 107.7 of the Revenue and Taxation Code is
20 amended to read:

21 107.7. (a) When valuing possessory interests in real property
22 created by the right to place wires, conduits, and appurtenances
23 along or across public streets, rights-of-way, or public easements
24 contained in either a cable franchise or license granted pursuant
25 to Section 53066 of the Government Code (a “cable possessory
26 interest”) or a state franchise to provide video service pursuant to
27 Section 5840 of the Public Utilities Code (a “video possessory
28 interest”), the assessor shall value these possessory interests
29 consistent with the requirements of Section 401. The methods of
30 valuation shall include, but not be limited to, the comparable sales
31 method, the income method (including, but not limited to,
32 capitalizing rent), or the cost method.

33 (b) (1) The preferred method of valuation of a cable television
34 possessory interest or video service possessory interest by the
35 assessor is capitalizing the annual rent, using an appropriate
36 capitalization rate.

37 (2) For purposes of this section, the annual rent shall be that
38 portion of that franchise fee received that is determined to be
39 payment for the cable possessory interest or video service
40 possessory interest for the actual remaining term or the reasonably

1 anticipated term of the franchise or license or the appropriate
2 economic rent. If the assessor does not use a portion of the
3 franchise fee as the economic rent, the resulting assessments shall
4 not benefit from any presumption of correctness.

5 (c) If the comparable sales method, which is not the preferred
6 method, is used by the assessor to value a cable possessory interest
7 or video service possessory interest when sold in combination with
8 other property, including, but not limited to, intangible assets or
9 rights, the resulting assessments shall not benefit from any
10 presumption of correctness.

11 (d) Intangible assets or rights of a cable system or the provider
12 of video services are not subject to ad valorem property taxation.
13 These intangible assets or rights include, but are not limited to:
14 franchises or licenses to construct, operate, and maintain a cable
15 system or video service system for a specified franchise term
16 (excepting therefrom that portion of the franchise or license which
17 grants the possessory interest); subscribers, marketing, and
18 programming contracts; nonreal property lease agreements;
19 management and operating systems; a workforce in place; going
20 concern value; deferred, startup, or prematurity costs; covenants
21 not to compete; and goodwill. However, a cable possessory interest
22 or video service possessory interest may be assessed and valued
23 by assuming the presence of intangible assets or rights necessary
24 to put the cable possessory interest or video service possessory
25 interest to beneficial or productive use in an operating cable system
26 or video service system.

27 (e) If a change in ownership of a cable possessory interest or
28 video service possessory interest occurs, the person or legal entity
29 required to file a statement pursuant to Section 480, 480.1, or 480.2
30 shall, at the request of the assessor, provide as a part of that
31 statement the following, if applicable: confirmation of the sales
32 price, allocation of the sales price among the counties, and gross
33 revenue and franchise fee expenses of the cable system or video
34 service system by county. Failure to provide the statement
35 information shall result in a penalty as provided in Section 482,
36 except that the maximum penalty shall be five thousand dollars
37 (\$5,000).

38 ~~SEC. 199.~~

39 *SEC. 198.* Section 8352.6 of the Revenue and Taxation Code
40 is amended to read:

1 8352.6. (a) Subject to Section 8352.1, on the first day of every
2 month, there shall be transferred from moneys deposited to the
3 credit of the Motor Vehicle Fuel Account to the Off-Highway
4 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
5 an amount attributable to taxes imposed upon distributions of motor
6 vehicle fuel used in the operation of motor vehicles off highway
7 and for which a refund has not been claimed. Transfers made
8 pursuant to this section shall be made prior to transfers pursuant
9 to Section 8352.2.

10 (b) The amount transferred pursuant to subdivision (a), as a
11 percentage of the Motor Vehicle Fuel Account, shall be equal to
12 the percentage transferred in the 2006–07 fiscal year. Every five
13 years, starting in the 2013–14 fiscal year, the percentage transferred
14 may be adjusted by the Department of Transportation in
15 cooperation with the Department of Parks and Recreation and the
16 Department of Motor Vehicles. Adjustments shall be based on,
17 but not limited to, the changes in the following factors since the
18 2006–07 fiscal year or the last adjustment, whichever is more
19 recent:

20 (1) The number of vehicles registered as off-highway motor
21 vehicles as required by Division 16.5 (commencing with Section
22 38000) of the Vehicle Code.

23 (2) The number of registered street-legal vehicles that are
24 anticipated to be used off highway, including four-wheel drive
25 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

26 (3) Attendance at the state vehicular recreation areas.

27 (4) Off-highway recreation use on federal lands as indicated by
28 the United States Forest Service’s National Visitor Use Monitoring
29 and the United States Bureau of Land Management’s Recreation
30 Management Information System.

31 (c) It is the intent of the Legislature that transfers from the Motor
32 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
33 should reflect the full range of motorized vehicle use off highway
34 for both motorized recreation and motorized off-road access to
35 other recreation opportunities. Therefore, the Legislature finds that
36 the fuel tax baseline established in subdivision (b), attributable to
37 off-highway estimates of use as of the 2006–07 fiscal year,
38 accounts for the three categories of vehicles that have been found
39 over the years to be users of fuel for off-highway motorized
40 recreation or motorized access to nonmotorized recreational

1 pursuits. These three categories are registered off-highway
2 motorized vehicles, registered street-legal motorized vehicles used
3 off highway, and unregistered off-highway motorized vehicles.

4 (d) It is the intent of the Legislature that the off-highway motor
5 vehicle recreational use to be determined by the Department of
6 Transportation pursuant to paragraph (2) of subdivision (b) be that
7 usage by vehicles subject to registration under Division 3
8 (commencing with Section 4000) of the Vehicle Code, for
9 recreation or the pursuit of recreation on surfaces where the use
10 of vehicles registered under Division 16.5 (commencing with
11 Section 38000) of the Vehicle Code may occur.

12 ~~SEC. 200.~~

13 *SEC. 199.* Section 8352.8 of the Revenue and Taxation Code
14 is amended to read:

15 8352.8. (a) The Conservation and Enforcement Services
16 Account is hereby established as an account in the Off-Highway
17 Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

18 (b) Funds in the Conservation and Enforcement Services
19 Account shall be allocated to the Division of Off-Highway Motor
20 Vehicle Recreation of the Department of Parks and Recreation for
21 expenditure, upon appropriation by the Legislature, for the
22 following purposes:

23 (1) Up to 40 percent of the funds, for cooperative agreements
24 or challenge cost-sharing agreements with the United States Forest
25 Service and the United States Bureau of Land Management, to
26 complete necessary route designation planning work and to
27 implement route planning decisions.

28 (2) Up to one million one hundred thousand dollars (\$1,100,000)
29 for each grant cycle, to increase the amount of funds available for
30 restoration grants in the program pursuant to paragraph (2) of
31 subdivision (b) of Section 5090.50 of the Public Resources Code.

32 ~~SEC. 201.~~

33 *SEC. 200.* Section 17053.5 of the Revenue and Taxation Code
34 is amended to read:

35 17053.5. (a) (1) For a qualified renter, there shall be allowed
36 a credit against his or her “net tax,” as defined in Section 17039.
37 The amount of the credit shall be as follows:

38 (A) For married couples filing joint returns, heads of household,
39 and surviving spouses, as defined in Section 17046, the credit shall

1 be equal to one hundred twenty dollars (\$120) if adjusted gross
2 income is fifty thousand dollars (\$50,000) or less.

3 (B) For other individuals, the credit shall be equal to sixty dollars
4 (\$60) if adjusted gross income is twenty-five thousand dollars
5 (\$25,000) or less.

6 (2) Except as provided in subdivision (b), a husband and wife
7 shall receive but one credit under this section. If the husband and
8 wife file separate returns, the credit may be taken by either or
9 equally divided between them, except as follows:

10 (A) If one spouse was a resident for the entire taxable year and
11 the other spouse was a nonresident for part or all of the taxable
12 year, the resident spouse shall be allowed one-half the credit
13 allowed to married persons and the nonresident spouse shall be
14 permitted one-half the credit allowed to married persons, prorated
15 as provided in subdivision (e).

16 (B) If both spouses were nonresidents for part of the taxable
17 year, the credit allowed to married persons shall be divided equally
18 between them subject to the proration provided in subdivision (e).

19 (b) For a husband and wife, if each spouse maintained a separate
20 place of residence and resided in this state during the entire taxable
21 year, each spouse will be allowed one-half the full credit allowed
22 to married persons provided in subdivision (a).

23 (c) For purposes of this section, a “qualified renter” means an
24 individual who satisfies both of the following:

25 (1) Was a resident of this state, as defined in Section 17014.

26 (2) Rented and occupied premises in this state which constituted
27 his or her principal place of residence during at least 50 percent
28 of the taxable year.

29 (d) “Qualified renter” does not include any of the following:

30 (1) An individual who for more than 50 percent of the taxable
31 year rented and occupied premises that were exempt from property
32 taxes, except that an individual, otherwise qualified, is deemed a
33 qualified renter if he or she or his or her landlord pays possessory
34 interest taxes, or the owner of those premises makes payments in
35 lieu of property taxes that are substantially equivalent to property
36 taxes paid on properties of comparable market value.

37 (2) An individual whose principal place of residence for more
38 than 50 percent of the taxable year is with another person who
39 claimed that individual as a dependent for income tax purposes.

1 (3) An individual who has been granted or whose spouse has
2 been granted the homeowners' property tax exemption during the
3 taxable year. This paragraph does not apply to an individual whose
4 spouse has been granted the homeowners' property tax exemption
5 if each spouse maintained a separate residence for the entire taxable
6 year.

7 (e) ~~an~~An otherwise qualified renter who is a nonresident for
8 any portion of the taxable year shall claim the credits set forth in
9 subdivision (a) at the rate of one-twelfth of those credits for each
10 full month that individual resided within this state during the
11 taxable year.

12 (f) A person claiming the credit provided in this section shall,
13 as part of that claim, and under penalty of perjury, furnish that
14 information as the Franchise Tax Board prescribes on a form
15 supplied by the board.

16 (g) The credit provided in this section shall be claimed on returns
17 in the form as the Franchise Tax Board may from time to time
18 prescribe.

19 (h) For purposes of this section, "premises" means a house or
20 a dwelling unit used to provide living accommodations in a
21 building or structure and the land incidental thereto, but does not
22 include land only, unless the dwelling unit is a mobilehome. The
23 credit is not allowed for any taxable year for the rental of land
24 upon which a mobilehome is located if the mobilehome has been
25 granted a homeowners' exemption under Section 218 in that year.

26 (i) This section shall become operative on January 1, 1998, and
27 applies to any taxable year beginning on or after January 1, 1998.

28 (j) For each taxable year beginning on or after January 1, 1999,
29 the Franchise Tax Board shall recompute the adjusted gross income
30 amounts set forth in subdivision (a). The computation shall be
31 made as follows:

32 (1) The Department of Industrial Relations shall transmit
33 annually to the Franchise Tax Board the percentage change in the
34 California Consumer Price Index for all items from June of the
35 prior calendar year to June of the current year, no later than August
36 1 of the current calendar year.

37 (2) The Franchise Tax Board shall compute an inflation
38 adjustment factor by adding 100 percent to the portion of the
39 percentage change figure which is furnished pursuant to paragraph
40 (1) and dividing the result by 100.

1 (3) The Franchise Tax Board shall multiply the amount in
2 subparagraph (B) of paragraph (1) of subdivision (d) for the
3 preceding taxable year by the inflation adjustment factor
4 determined in paragraph (2), and round off the resulting products
5 to the nearest one dollar (\$1).

6 (4) In computing the amounts pursuant to this subdivision, the
7 amounts provided in subparagraph (A) of paragraph (1) of
8 subdivision (a) shall be twice the amount provided in subparagraph
9 (B) of paragraph (1) of subdivision (a).

10 ~~SEC. 202.~~

11 *SEC. 201.* Section 30182 of the Revenue and Taxation Code
12 is amended to read:

13 30182. (a) Except as provided in subdivision (b), a distributor
14 shall file, on or before the 25th day of each month, a report in the
15 form as prescribed by the board, that may include, but not be
16 limited to, electronic media with respect to distributions of
17 cigarettes and purchases of stamps and meter register units during
18 the preceding month and any other information as the board may
19 require to carry out this part.

20 (b) Reports shall be authenticated in a form, or pursuant to
21 methods, as may be prescribed by the board.

22 ~~SEC. 203.~~

23 *SEC. 202.* Section 32258 of the Revenue and Taxation Code
24 is amended to read:

25 32258. (a) Under regulations prescribed by the board, if:

26 (1) A tax liability under this part was understated by a failure
27 to file a return required to be filed under this part, by the omission
28 of an amount properly includable therein, or by erroneous
29 deductions or credits claimed on a return, and the understatement
30 of tax liability is attributable to one spouse; or any amount of the
31 tax reported on a return was unpaid and the nonpayment of the
32 reported tax liability is attributable to one spouse.

33 (2) The other spouse establishes that he or she did not know of,
34 and had no reason to know of, that understatement or nonpayment.

35 (3) Taking into account whether the other spouse significantly
36 benefited directly or indirectly from the understatement or the
37 nonpayment and taking into account all other facts and
38 circumstances, it is inequitable to hold the other spouse liable for
39 the deficiency in tax attributable to that understatement or
40 nonpayment, then the other spouse shall be relieved of liability for

1 tax, including interest, penalties, and other amounts, to the extent
2 that the liability is attributable to that understatement or
3 nonpayment of tax.

4 (b) For purposes of this section, the determination of the spouse
5 to whom items of understatement or nonpayment are attributable
6 shall be made without regard to community property laws.

7 (c) This section shall apply to all calendar months, quarters, or
8 years subject to this part, but shall not apply to a calendar month,
9 quarter, or year that is more than five years from the final date on
10 the board-issued determination, five years from the return due date
11 for nonpayment on a return, or one year from the first contact with
12 the spouse making a claim under this section; or that has been
13 closed by res judicata, whichever is later.

14 (d) For purposes of paragraph (2) of subdivision (a), “reason to
15 know” means whether a reasonably prudent person would have
16 had reason to know of the understatement or nonpayment.

17 (e) For purposes of this section, with respect to a failure to file
18 a return or an omission of an item from the return, “attributable to
19 one spouse” may be determined by whether a spouse rendered
20 substantial service as a manufacturer, winegrower, importer, or
21 seller of beer or wine, or as a manufacturer, distilled spirits
22 manufacturer’s agent, brandy manufacturer, rectifier, wholesaler,
23 or seller of distilled spirits to which the understatement is
24 attributable. If neither spouse rendered substantial services as a
25 manufacturer, winegrower, importer, or seller of beer or wine, or
26 as a manufacturer, distilled spirits manufacturer’s agent, brandy
27 manufacturer, rectifier, wholesaler, or seller of distilled spirits,
28 then the attribution of applicable items of understatement shall be
29 treated as community property. An erroneous deduction or credit
30 shall be attributable to the spouse who caused that deduction or
31 credit to be entered on the return.

32 (f) Under procedures prescribed by the board, if, taking into
33 account all the facts and circumstances, it is inequitable to hold
34 the other spouse liable for an unpaid tax or any deficiency, or any
35 portion of either, attributable to an item for which relief is not
36 available under subdivision (a), the board may relieve the other
37 spouse of that liability.

38 (g) For purposes of this section, registered domestic partners,
39 as defined in Section 297 of the Family Code, have the same rights,
40 protections, and benefits as provided by this section, and are subject

1 to the same responsibilities, obligations, and duties as imposed by
2 this section, as are granted to and imposed upon spouses.

3 (h) The relief provided by this section shall apply retroactively
4 to liabilities arising prior to January 1, 2008.

5 ~~SEC. 204.~~

6 *SEC. 203.* Section 41007 of the Revenue and Taxation Code
7 is amended to read:

8 41007. (a) “Service supplier” shall mean a person supplying
9 intrastate telephone communication services pursuant to California
10 intrastate tariffs to a service user in this state.

11 (b) On and after January 1, 1988, “service supplier” also includes
12 a person supplying intrastate telephone—~~communications~~
13 *communication* services for whom the Public Utilities Commission,
14 by rule or order, modifies or eliminates the requirement for that
15 person to prepare and file California intrastate tariffs.

16 ~~SEC. 205.~~

17 *SEC. 204.* Section 41011 of the Revenue and Taxation Code
18 is amended to read:

19 41011. (a) “Charges for services” means all charges billed by
20 a service supplier to a service user for intrastate telephone
21 communication services and shall mean local telephone service
22 and include monthly service flat-rate charges for usage, message
23 unit charges and shall mean toll charges, and include
24 intra-state-wide area telephone service charges. “Charges for
25 services” shall not include a tax imposed by the United States or
26 by any charter city, charges for service paid by inserting coins in
27 a public coin-operated telephone, and shall not apply to amounts
28 billed to nonsubscribers for coin shortages. If a coin-operated
29 telephone service is furnished for a guarantee or other periodic
30 amount, that amount is subject to the surcharge imposed by this
31 part.

32 (b) “Charges for services” shall not include charges for intrastate
33 toll calls if bills for those calls originate out of California.

34 (c) “Charges for services” shall not include charges for a
35 nonrecurring, installation, service connection or one-time charge
36 for service or directory advertising, and shall not include private
37 communication service charges, charges for other than
38 communication service, or a charge made by a hotel or motel for
39 service rendered in placing calls for its guests regardless of how

1 that hotel or motel charge is denominated or characterized by an
2 applicable tariff of the Public Utilities Commission of this state.

3 (d) “Charges for services” shall not include charges for basic
4 exchange line service for lifeline services.

5 ~~SEC. 206.~~

6 *SEC. 205.* Section 41021 of the Revenue and Taxation Code
7 is amended to read:

8 41021. (a) A service supplier shall collect the surcharge from
9 each service user at the time it collects its billings from the service
10 user, provided that the duty to collect the surcharge from a service
11 user shall commence with the beginning of the first regular billing
12 period applicable to that person which starts on or after the
13 operative date of the surcharge imposed by this part. If the stations
14 or lines of more than one service supplier are utilized in furnishing
15 the telephone communication services to the service user, the
16 service supplier that bills the customer shall collect the surcharge
17 from the customer.

18 (b) Only one payment under this part shall be required with
19 respect to the surcharge on a service, notwithstanding that the lines
20 or stations of one or more service suppliers are used in furnishing
21 that service.

22 ~~SEC. 207.~~

23 *SEC. 206.* Section 41030 of the Revenue and Taxation Code
24 is amended to read:

25 41030. The Department of General Services shall determine
26 annually, on or before October 1, a surcharge rate that it estimates
27 will produce sufficient revenue to fund the current fiscal year’s
28 911 costs. The surcharge rate shall be determined by dividing the
29 costs, including incremental costs, the Department of General
30 Services estimates for the current fiscal year of 911 plans approved
31 pursuant to Section 53115 of the Government Code, less the
32 available balance in the State Emergency Telephone Number
33 Account in the General Fund, by its estimate of the charges for
34 intrastate telephone communication services to which the surcharge
35 will apply for the period of January 1 to December 31 of the next
36 succeeding calendar year, but in no event shall the surcharge rate
37 in any year be greater than three-quarters of 1 percent nor less than
38 one-half of 1 percent.

1 ~~SEC. 208.~~

2 *SEC. 207.* Section 41099 of the Revenue and Taxation Code
3 is amended to read:

4 41099. (a) Under regulations prescribed by the board, if:

5 (1) A surcharge liability under this part was understated by a
6 failure to file a return required to be filed under this part, by the
7 omission of an amount properly includable therein, or by erroneous
8 deductions or credits claimed on a return, and the understatement
9 of surcharge liability is attributable to one spouse; or any amount
10 of the surcharge reported on a return was unpaid and the
11 nonpayment of the reported surcharge liability is attributable to
12 one spouse.

13 (2) The other spouse establishes that he or she did not know of,
14 and had no reason to know of, that understatement or nonpayment.

15 (3) Taking into account whether the other spouse significantly
16 benefited directly or indirectly from the understatement or the
17 nonpayment and taking into account all other facts and
18 circumstances, it is inequitable to hold the other spouse liable for
19 the deficiency in surcharge attributable to that understatement or
20 nonpayment, then the other spouse shall be relieved of liability for
21 the surcharge, including interest, penalties, and other amounts, to
22 the extent that the liability is attributable to that understatement
23 or nonpayment of the surcharge.

24 (b) For purposes of this section, the determination of the spouse
25 to whom items of understatement or nonpayment are attributable
26 shall be made without regard to community property laws.

27 (c) This section shall apply to all calendar months, quarters, or
28 years subject to the provisions of this part, but shall not apply to
29 a calendar month, quarter, or year that is more than five years from
30 the final date on the board-issued determination, five years from
31 the return due date for nonpayment on a return, or one year from
32 the first contact with the spouse making a claim under this section;
33 or that has been closed by *res judicata*, whichever is later.

34 (d) For purposes of paragraph (2) of subdivision (a), “reason to
35 know” means whether a reasonably prudent person would have
36 had reason to know of the understatement or nonpayment.

37 (e) For purposes of this section, with respect to a failure to file
38 a return or an omission of an item from the return, “attributable to
39 one spouse” may be determined by whether a spouse rendered
40 substantial service as a service supplier of intrastate telephone

1 communication services to service users or as a user of intrastate
2 telephone communication services to which the understatement is
3 attributable. If neither spouse rendered substantial services as a
4 service supplier or as a service user, then the attribution of
5 applicable items of understatement shall be treated as community
6 property. An erroneous deduction or credit shall be attributable to
7 the spouse who caused that deduction or credit to be entered on
8 the return.

9 (f) Under procedures prescribed by the board, if, taking into
10 account all the facts and circumstances, it is inequitable to hold
11 the other spouse liable for an unpaid surcharge or deficiency, or
12 any portion of either, attributable to any item for which relief is
13 not available under subdivision (a), the board may relieve the other
14 spouse of that liability.

15 (g) For purposes of this section, registered domestic partners,
16 as defined in Section 297 of the Family Code, have the same rights,
17 protections, and benefits as provided by this section, and are subject
18 to the same responsibilities, obligations, and duties as imposed by
19 this section, as are granted to and imposed upon spouses.

20 (h) The relief provided by this section shall apply retroactively
21 to liabilities arising prior to January 1, 2008.

22 ~~SEC. 209.~~

23 *SEC. 208.* Section 118 of the Streets and Highways Code is
24 amended to read:

25 118. (a) If the department determines that real property or an
26 interest therein, previously or hereafter acquired by the state for
27 highway purposes, is no longer necessary for those purposes, the
28 department may sell, contract to sell, sell by trust deed, or exchange
29 the real property or interest therein in the manner and upon terms,
30 standards, and conditions established by the commission. The
31 payment period in a contract of sale or sale by trust deed shall not
32 extend longer than 10 years from the time the contract of sale or
33 trust deed is executed, and a transaction involving a contract of
34 sale or sale by trust deed to private parties shall require a
35 downpayment of at least 30 percent of the purchase price, except
36 as follows:

37 (1) For improved and unimproved real property sold or
38 exchanged for the purpose of housing for persons and families of
39 low or moderate income, as defined in Section 50093 of the Health
40 and Safety Code, the payment period shall not exceed 40 years

1 and the downpayment shall be at least 5 percent of the purchase
2 price. All contracts of sale or sales by trust deed, for the purpose
3 of housing for persons and families of low or moderate income
4 shall bear interest. The rate of interest for the contract or sale shall
5 be computed annually, and shall be the same as the average rate
6 returned by the Pooled Money Investment Board for the past five
7 fiscal years immediately preceding the year in which the payment
8 is made. The contract of sale and sales by trust deeds shall not be
9 utilized if the proposed development or sale qualifies for financing
10 from other sources and if the financing makes feasible the provision
11 of low- and moderate-income housing.

12 (2) Improved residential property sold to a local public agency
13 pursuant to paragraph (1), if subsequently sold or transferred to a
14 nonprofit housing organization, shall have the endorsement of the
15 city in which the parcels are located, or the county if the parcels
16 are located in an unincorporated area, that the housing shall remain
17 at affordable housing costs to persons and families of low or
18 moderate income and very low income households for the longest
19 feasible time, but for not less than 15 years, as determined by the
20 city or county, as applicable. By endorsing the sale, the city or
21 county accepts the responsibility of ensuring the housing remains
22 affordable. The local public agency shall record in the office of
23 the county recorder covenants or restrictions implementing this
24 subdivision. Notwithstanding any other provision of law, the
25 covenants or restrictions shall run with the land and shall be
26 enforceable against the original purchaser from the department
27 and successors in interest.

28 (b) A conveyance under this section shall be approved by the
29 commission and shall be executed on behalf of the state by the
30 director and the purchase price shall be paid into the State Treasury
31 to the credit of any fund, available to the department for highway
32 purposes, which the commission designates.

33 (c) Any such real property or interest therein may in like manner
34 be exchanged, either as whole or part consideration, for any other
35 real property or interest therein needed for state highway purposes.

36 ~~SEC. 210.~~

37 *SEC. 209.* Section 464 of the Streets and Highways Code is
38 amended to read:

39 464. (a) Route 164 is Rosemead Boulevard from:

1 (1) Gallatin Road near Pico Rivera to the northern city limit of
2 Temple City in the vicinity of Callita Street and Sultana Avenue.

3 (2) The northern city limit of Temple City in the vicinity of
4 Callita Street and Sultana Avenue to the southern city limit of the
5 City of Pasadena.

6 (b) (1) Notwithstanding subdivision (a), the commission may
7 relinquish to the County of Los Angeles that portion of Route 164
8 described in paragraph (2) of subdivision (a), pursuant to the terms
9 of a cooperative agreement between the county and the department,
10 upon a determination by the commission that the relinquishment
11 is in the best interests of the state.

12 (2) A relinquishment under this subdivision shall become
13 effective immediately following the recordation by the county
14 recorder of the relinquishment resolution containing the
15 commission's approval of the terms and conditions of the
16 relinquishment.

17 (3) On and after the effective date of the relinquishment, both
18 of the following shall apply:

19 (A) The portion of Route 164 relinquished under this subdivision
20 shall cease to be a state highway.

21 (B) The portion of Route 164 relinquished under this subdivision
22 shall not be considered for future adoption under Section 81.

23 (4) For the portion of Route 164 that is relinquished under this
24 subdivision, the County of Los Angeles shall maintain within its
25 jurisdiction signs directing motorists to the continuation of Route
26 164.

27 (c) (1) Notwithstanding subdivision (a), the commission may
28 relinquish to the City of Temple City the portion of Route 164
29 located within the city limits of that city pursuant to the terms of
30 a cooperative agreement between the city and the department, upon
31 a determination by the commission that the relinquishment is in
32 the best interests of the state.

33 (2) A relinquishment under this subdivision shall become
34 effective immediately following the recordation by the county
35 recorder of the relinquishment resolution containing the
36 commission's approval of the terms and conditions of the
37 relinquishment.

38 (3) On and after the effective date of the relinquishment, both
39 of the following shall apply:

1 (A) The portion of Route 164 relinquished under this subdivision
2 shall cease to be a state highway.

3 (B) The portion of Route 164 relinquished under this subdivision
4 shall not be considered for future adoption under Section 81.

5 (4) For the portion of Route 164 that is relinquished under this
6 subdivision, the City of Temple City shall maintain within its
7 jurisdiction signs directing motorists to the continuation of Route
8 164.

9 ~~SEC. 211.~~

10 *SEC. 210.* Section 25440 of the Streets and Highways Code is
11 amended to read:

12 25440. Funding bonds issued pursuant to the provisions of this
13 chapter shall be in substantially the following form (filling in
14 blanks as appropriate):

15 FUNDING BOND

16 Joint Highway District No. ____ of the State of California

17
18 \$____ Bond No. ____ Serial ____.

19 Under and by virtue of Part 1 (commencing with Section 25000)
20 of Division 16 of the Streets and Highways Code, the treasurer of
21 Joint Highway District No. ____ of the State of California will
22 pay to the bearer, out of the fund hereinafter designated, at the
23 office of the treasurer of said district, on the ____ day of ____,
24 20__, the sum of ____ dollars, in lawful money of the United States
25 of America, with interest thereon in like lawful money at the rate
26 of ____ per cent per annum, payable semiannually on the second
27 day of January and the second day of July in each year from the
28 date hereof (except the last installment thereof, which shall be
29 payable at the maturity of this bond), upon presentation and
30 surrender, as they respectively become due, of the proper interest
31 coupons hereto attached, the first of which is for interest from date
32 hereof to the next date of interest payment, and the last for interest
33 to maturity hereof from the last preceding date of interest payment.
34 This bond is issued under and in conformity with the provisions
35 of Part 1 (commencing with Section 25000) of Division 16 of the
36 Streets and Highways Code, and is one of a series of bonds of like
37 date and effect numbered from one to ____ consecutively. It is
38 hereby certified, recited, and declared that all proceedings, acts,
39 and things required by law precedent to or in the issuance of this

1 bond have been regularly had, done, and performed, and this bond
2 is by law made conclusive evidence thereof.

3 This bond is payable out of the “Joint Highway District No. ____
4 of the State of California Funding Bond Redemption Fund,”
5 exclusively, as the same appears upon the books of the treasurer
6 of that district, and in accordance with the provisions of Part 1
7 (commencing with Section 25000) of Division 16 of the Streets
8 and Highways Code special assessment taxes will be levied and
9 collected upon the lands within Funding District No. ____ in that
10 joint highway district in an amount clearly sufficient to pay the
11 principal and interest of the bonds as the bonds become due and
12 payable.

13 In witness whereof the board of directors of the district has
14 caused this bond to be signed by the treasurer of the district attested
15 by the secretary of the board and the official seal of the district to
16 be affixed hereto this ____ day of ____, 20__.

17 _____
18
19 (SEAL) Treasurer of Joint Highway District
20 No. ____ of the State of California.

21 Attest:
22 _____
23 Secretary of the Board of Directors.

24 ~~SEC. 212.~~

25 *SEC. 211.* Section 36622 of the Streets and Highways Code is
26 amended to read:

27 36622. The management district plan shall contain all of the
28 following:

29 (a) A map of the district in sufficient detail to locate each parcel
30 of property and, if businesses are to be assessed, each business
31 within the district.

32 (b) The name of the proposed district.

33 (c) A description of the boundaries of the district, including the
34 boundaries of benefit zones, proposed for establishment or
35 extension in a manner sufficient to identify the affected lands and
36 businesses included. The boundaries of a proposed property
37 assessment district shall not overlap with the boundaries of another
38 existing property assessment district created pursuant to this part.
39 This part does not prohibit the boundaries of a district created
40 pursuant to this part to overlap with other assessment districts

1 established pursuant to other provisions of law, including, but not
2 limited to, the Parking and Business Improvement Area Law of
3 1989 (Part 6 (commencing with Section 36500)). This part does
4 not prohibit the boundaries of a business assessment district created
5 pursuant to this part to overlap with another business assessment
6 district created pursuant to this part. This part does not prohibit
7 the boundaries of a business assessment district created pursuant
8 to this part to overlap with a property assessment district created
9 pursuant to this part.

10 (d) The improvements and activities proposed for each year of
11 operation of the district and the maximum cost thereof.

12 (e) The total annual amount proposed to be expended for
13 improvements, maintenance and operations, and debt service in
14 each year of operation of the district.

15 (f) The proposed source or sources of financing, including the
16 proposed method and basis of levying the assessment in sufficient
17 detail to allow each property or business owner to calculate the
18 amount of the assessment to be levied against his or her property
19 or business. The plan also shall state whether bonds will be issued
20 to finance improvements.

21 (g) The time and manner of collecting the assessments.

22 (h) The specific number of years in which assessments will be
23 levied. In a new district, the maximum number of years shall be
24 five. Upon renewal, a district shall have a term not to exceed 10
25 years. Notwithstanding these limitations, a district created pursuant
26 to this part to finance capital improvements with bonds may levy
27 assessments until the maximum maturity of the bonds. The
28 management district plan may set forth specific increases in
29 assessments for each year of operation of the district.

30 (i) The proposed time for implementation and completion of
31 the management district plan.

32 (j) Any proposed rules and regulations to be applicable to the
33 district.

34 (k) A list of the properties or businesses to be assessed, including
35 the assessor's parcel numbers for properties to be assessed, and a
36 statement of the method or methods by which the expenses of a
37 district will be imposed upon benefited real property or businesses,
38 in proportion to the benefit received by the property or business,
39 to defray the cost thereof, including operation and maintenance.
40 The plan may provide that all or any class or category of real

1 property which is exempt by law from real property taxation may
2 nevertheless be included within the boundaries of the district but
3 shall not be subject to assessment on real property.

4 (l) Any other item or matter required to be incorporated therein
5 by the city council.

6 ~~SEC. 213.~~

7 *SEC. 212.* Section 2739 of the Unemployment Insurance Code
8 is amended to read:

9 2739. The Director of Employment Development, subject to
10 this article, may do any or all of the following in the recovery of
11 overpayments of disability benefits:

12 (a) File a civil action against the liable person for the recovery
13 of the amount of the overpayment within one year after any of the
14 following, or, in cases where the individual has been overpaid
15 benefits due to fraud, misrepresentation, or nondisclosure as
16 described in Section 2735.1, within three years of any of the
17 following:

18 (1) The mailing or personal service of the notice of overpayment
19 determination if the person affected does not file an appeal to an
20 administrative law judge.

21 (2) The mailing of the decision of the administrative law judge
22 if the person affected does not initiate a further appeal to the
23 appeals board.

24 (3) The date of the decision of the appeals board.

25 (b) Initiate proceedings for a summary judgment against the
26 liable person. However, this subdivision applies only where the
27 director has found, pursuant to Section 2735, that the overpayment
28 shall not be waived because it was due to fraud, misrepresentation,
29 or willful nondisclosure on the part of the recipient. The director
30 may, not later than three years after the overpayment became final,
31 file with the clerk of the proper court in the county in which the
32 claimant resides, a certificate containing all of the following:

33 (1) The amount due, including the assessment made under
34 Section 2735.1, plus interest from the date that the initial
35 determination of overpayment was made pursuant to Section 2735.

36 (2) A statement that the director has complied with all of the
37 provisions of this article prior to the filing of the certificate.

38 (3) A request that judgment be entered against the liable person
39 in the amount set forth in the certificate.

1 The clerk, immediately upon filing of the certificate, shall enter
2 a judgment for the State of California against the liable person in
3 the amount set forth in the certificate.

4 For purposes of this subdivision only, an overpayment is final
5 and due and payable after one of the following:

6 (A) The liable person has not filed an appeal pursuant to Section
7 2737.

8 (B) The liable person has filed an appeal to an administrative
9 law judge and a decision of the administrative law judge upholding
10 the overpayment has become final.

11 (C) The liable person has filed an appeal to the appeals board
12 and the decision of the appeals board upholding the overpayment
13 has become final because the liable person has not sought judicial
14 review within the six-month period provided by Section 410.

15 (c) Reduce or vacate a summary judgment by filing a certificate
16 to that effect with the clerk of the proper court.

17 (d) Offset the amount of the overpayment received by the liable
18 person against any amount of disability benefits to which he or
19 she may become entitled under this division within six years of
20 the date of mailing or personal service of the notice of overpayment
21 determination.

22 ~~SEC. 214.~~

23 *SEC. 213.* Section 1803 of the Vehicle Code, as amended by
24 Chapter 747 of the Statutes of 2007, is amended to read:

25 1803. (a) (1) The clerk of a court in which a person was
26 convicted of a violation of this code, was convicted of a violation
27 of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the
28 Harbors and Navigation Code pertaining to a mechanically
29 propelled vessel but not to manipulating any water skis, an
30 aquaplane, or similar device, was convicted of a violation of
31 Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation
32 Code, or a violation of subdivision (a) of Section 192.5 of the Penal
33 Code, was convicted of an offense involving use or possession of
34 controlled substances under Division 10 (commencing with Section
35 11000) of the Health and Safety Code, was convicted of a felony
36 offense when a commercial motor vehicle, as defined in subdivision
37 (b) of Section 15210, was involved in or incidental to the
38 commission of the offense, or was convicted of a violation of any
39 other statute relating to the safe operation of vehicles, shall prepare
40 within 10 days after conviction and immediately forward to the

1 department at its office in Sacramento an abstract of the record of
2 the court covering the case in which the person was so convicted.
3 If sentencing is not pronounced in conjunction with the conviction,
4 the abstract shall be forwarded to the department within 10 days
5 after sentencing and the abstract shall be certified by the person
6 required to prepare it to be true and correct.

7 (2) For purposes of this section, a forfeiture of bail shall be
8 equivalent to a conviction.

9 (b) The following violations are not required to be reported
10 under subdivision (a):

11 (1) Division 3.5 (commencing with Section 9840).

12 (2) Section 21113, with respect to parking violations.

13 (3) Chapter 9 (commencing with Section 22500) of Division
14 11, except Section 22526.

15 (4) Division 12 (commencing with Section 24000), except
16 Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103,
17 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3
18 (commencing with Section 26301).

19 (5) Division 15 (commencing with Section 35000), except
20 Chapter 5 (commencing with Section 35550).

21 (6) Violations for which a person was cited as a pedestrian or
22 while operating a bicycle or a motorized scooter.

23 (7) Division 16.5 (commencing with Section 38000), except
24 Section 38301.3.

25 (8) Subdivision (b) of Section 23221, subdivision (b) of Section
26 23223, subdivision (b) of Section 23225, and subdivision (b) of
27 Section 23226.

28 (c) If the court impounds a license, or orders a person to limit
29 his or her driving pursuant to subdivision (d) of Section 40508,
30 the court shall notify the department concerning the impoundment
31 or limitation on an abstract prepared pursuant to subdivision (a)
32 of this section or on a separate abstract, that shall be prepared
33 within 10 days after the impoundment or limitation was ordered
34 and immediately forwarded to the department at its office in
35 Sacramento.

36 (d) If the court determines that a prior judgment of conviction
37 of a violation of Section 23152 or 23153 is valid or is invalid on
38 constitutional grounds pursuant to Section 41403, the clerk of the
39 court in which the determination is made shall prepare an abstract

1 of that determination and forward it to the department in the same
2 manner as an abstract of record pursuant to subdivision (a).

3 (e) Within 10 days of an order terminating or revoking probation
4 under Section 23602, the clerk of the court in which the order
5 terminating or revoking probation was entered shall prepare and
6 immediately forward to the department at its office in Sacramento
7 an abstract of the record of the court order terminating or revoking
8 probation and any other order of the court to the department
9 required by law.

10 (f) This section shall remain in effect only until October 1, 2008,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before October 1, 2008, deletes or extends that date.

13 ~~SEC. 215.~~

14 *SEC. 214.* Section 2430.1 of the Vehicle Code is amended to
15 read:

16 2430.1. As used in this article, each of the following terms has
17 the following meaning:

18 (a) "Tow truck driver" means a person who operates a tow truck,
19 who renders towing service or emergency road service to motorists
20 while involved in freeway service patrol operations, pursuant to
21 an agreement with a regional or local entity, and who has or will
22 have direct and personal contact with the individuals being
23 transported or assisted. As used in this subdivision, "towing
24 service" has the same meaning as defined in Section 2436.

25 (b) "Employer" means a person or organization that employs
26 those persons defined in subdivision (a), or who is an
27 owner-operator who performs the activity specified in subdivision
28 (a), and who is involved in freeway service patrol operations
29 pursuant to an agreement or contract with a regional or local entity.

30 (c) "Regional or local entity" means a public organization
31 established as a public transportation planning entity pursuant to
32 Title 7.1 (commencing with Section 66500) of the Government
33 Code or authorized to impose a transaction and use tax for
34 transportation purposes by the Public Utilities Code or the service
35 authority for freeway emergencies described in Section 2551 of
36 the Streets and Highways Code.

37 (d) "Emergency road service" has the same meaning as defined
38 in Section 2436.

39 (e) "Freeway service patrol" has the same meaning as defined
40 in Section 2561 of the Streets and Highways Code.

1 ~~SEC. 216.~~

2 *SEC. 215.* Section 4766 of the Vehicle Code is amended to
3 read:

4 4766. (a) Except as provided in subdivisions (b) and (c), the
5 department shall refuse to renew the registration of a vehicle for
6 which a notice of noncompliance has been transmitted to the
7 department pursuant to subdivision (a) of Section 40002.1 if no
8 certificate of adjudication has been received by the department
9 pursuant to subdivision (b) of that section. The department shall
10 include on each potential registration card issued for use at the
11 time of renewal, or on an accompanying document, an itemization
12 of citations for which notices of noncompliance have been received
13 by the department pursuant to subdivision (a) of Section 40002.1.
14 The itemization shall include the citation number, citation date,
15 and the jurisdiction that issued the underlying notice pursuant to
16 Section 40002 and the administrative service fee for clearing the
17 offense pursuant to subdivision (b) of this section.

18 (b) Upon application for renewal of vehicle registration for a
19 vehicle subject to subdivision (a), the department shall not refuse
20 registration renewal pursuant to subdivision (a) if the applicant,
21 with respect to each outstanding certificate of noncompliance, has
22 performed both of the following:

23 (1) Provides the department with a certificate of adjudication
24 for the offense issued pursuant to subdivision (b) of Section
25 40002.1.

26 (2) Pays an administrative service fee, which shall be established
27 by the department to, in the aggregate, defray its costs in
28 administering this section.

29 (c) Whenever registration of a vehicle subject to subdivision
30 (a) is transferred or not renewed for two renewal periods, the
31 department shall notify each court that transmitted a notice of
32 noncompliance affecting the vehicle of the transfer of, or lack of
33 renewal of, the registration and the department shall not thereafter
34 refuse registration renewal pursuant to subdivision (a).

35 ~~SEC. 217.~~

36 *SEC. 216.* Section 5004.1 of the Vehicle Code, as amended by
37 Section 1 of Chapter 497 of the Statutes of 2007, is amended to
38 read:

39 5004.1. (a) (1) An owner of a vehicle that is a 1969 or older
40 model-year vehicle or the owner of a commercial vehicle or a

1 pickup truck that is a 1972 or older model-year may, after the
2 requirements for the registration of the vehicle are complied with
3 and with the approval of the department, utilize license plates of
4 this state with the date of year corresponding to the model-year
5 date when the vehicle was manufactured, if the model-year date
6 license plate is legible and serviceable, as determined by the
7 department, in lieu of the license plates otherwise required by this
8 code.

9 (2) The department may consult with an organization of old car
10 hobbyists in determining whether the date of year of the license
11 plate corresponds to the model-year date when the vehicle was
12 manufactured.

13 (b) A fee of forty-five dollars (\$45) shall be charged for the
14 application for the use of the special plates.

15 (c) In addition to the regular renewal fee for the vehicle for
16 which the plates are authorized, the applicant for a renewal of the
17 plates shall be charged an additional fee of ten dollars (\$10). If
18 payment of a regular vehicle renewal fee is not required by this
19 code, the holder of license plates with a date corresponding to the
20 model-year may retain the plates upon payment of an annual fee
21 of twenty dollars (\$20) that shall be due at the expiration of the
22 registration year of the vehicle to which the plates were last
23 assigned under this section.

24 (d) If a person who is authorized to utilize the special license
25 plates applies to the department for transfer of the plates to another
26 vehicle, a transfer fee of twelve dollars (\$12) shall be charged in
27 addition to all other appropriate fees.

28 ~~SEC. 218.~~

29 *SEC. 217.* Section 9853.6 of the Vehicle Code is amended to
30 read:

31 9853.6. (a) (1) Beginning July 1, 2008, the fee described in
32 paragraph (1) of subdivision (b) of Section 9853 shall be increased
33 by ten dollars (\$10).

34 (2) Five dollars (\$5) of the increase shall be deposited into the
35 Alternative and Renewable Fuel and Vehicle Technology Fund
36 created by Section 44273 of the Health and Safety Code and five
37 dollars (\$5) shall be deposited into the Air Quality Improvement
38 Fund created by Section 44274.5 of the Health and Safety Code.

1 (b) (1) Beginning July 1, 2008, the fee described in paragraph
2 (2) of subdivision (b) of Section 9853 shall be increased by twenty
3 dollars (\$20).

4 (2) Ten dollars (\$10) of the increase shall be deposited into the
5 Alternative and Renewable Fuel and Vehicle Technology Fund
6 created by Section 44273 of the Health and Safety Code and ten
7 dollars (\$10) shall be deposited into the Air Quality Improvement
8 Fund created by Section 44274.5 of the Health and Safety Code.

9 (c) This section shall remain in effect only until January 1, 2016,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2016, deletes or extends that date.

12 ~~SEC. 219.~~

13 *SEC. 218.* Section 11410 of the Vehicle Code is amended to
14 read:

15 11410. (a) Every license issued under this chapter is valid for
16 a period of one year from the last day of the month of issuance.
17 Except as provided in subdivision (c), renewal of the license for
18 the ensuing year may be obtained by the person to whom the
19 license was issued upon application to the department and payment
20 of the fee required by Section 11409.

21 (b) An application for the renewal of a license shall be made
22 by the licensee not more than 90 days prior to the expiration date
23 and shall be made by presenting the completed application form
24 provided by the department and by payment of the renewal fee.

25 (c) If the application for renewal of the license is not made by
26 midnight of the expiration date, the application may be made within
27 30 days following expiration of the license by paying the annual
28 renewal fee and a penalty fee equal to the amount of the original
29 application fee for each license held.

30 (d) A licensee shall not renew the license after the expiration
31 of the 30-day period specified in subdivision (c).

32 ~~SEC. 220.~~

33 *SEC. 219.* Section 13353.2 of the Vehicle Code, as amended
34 by Section 2 of Chapter 749 of the Statutes of 2007, is amended
35 to read:

36 13353.2. (a) The department shall immediately suspend the
37 privilege of a person to operate a motor vehicle for any one of the
38 following reasons:

39 (1) The person was driving a motor vehicle when the person
40 had 0.08 percent or more, by weight, of alcohol in his or her blood.

1 (2) The person was under 21 years of age and had a
2 blood-alcohol concentration of 0.01 percent or greater, as measured
3 by a preliminary alcohol screening test, or other chemical test.

4 (3) The person was driving a vehicle that requires a commercial
5 driver's license when the person had 0.04 percent or more, by
6 weight, of alcohol in his or her blood.

7 (4) The person was driving a motor vehicle when both of the
8 following applied:

9 (A) The person was on probation for a violation of Section
10 23152 or 23153.

11 (B) The person had 0.01 percent or more, by weight, of alcohol
12 in his or her blood, as measured by a preliminary alcohol screening
13 test or other chemical test.

14 (b) The notice of the order of suspension under this section shall
15 be served on the person by a peace officer pursuant to Section
16 13382 or 13388. The notice of the order of suspension shall be on
17 a form provided by the department. If the notice of the order of
18 suspension has not been served upon the person by the peace officer
19 pursuant to Section 13382 or 13388, upon the receipt of the report
20 of a peace officer submitted pursuant to Section 13380, the
21 department shall mail written notice of the order of the suspension
22 to the person at the last known address shown on the department's
23 records and, if the address of the person provided by the peace
24 officer's report differs from the address of record, to that address.

25 (c) The notice of the order of suspension shall specify clearly
26 the reason and statutory grounds for the suspension, the effective
27 date of the suspension, the right of the person to request an
28 administrative hearing, the procedure for requesting an
29 administrative hearing, and the date by which a request for an
30 administrative hearing shall be made in order to receive a
31 determination prior to the effective date of the suspension.

32 (d) The department shall make a determination of the facts in
33 subdivision (a) on the basis of the report of a peace officer
34 submitted pursuant to Section 13380. The determination of the
35 facts, after administrative review pursuant to Section 13557, by
36 the department is final, unless an administrative hearing is held
37 pursuant to Section 13558 and any judicial review of the
38 administrative determination after the hearing pursuant to Section
39 13559 is final.

1 (e) The determination of the facts in subdivision (a) is a civil
2 matter that is independent of the determination of the person's
3 guilt or innocence, shall have no collateral estoppel effect on a
4 subsequent criminal prosecution, and shall not preclude the
5 litigation of the same or similar facts in the criminal proceeding.
6 If a person is acquitted of criminal charges relating to a
7 determination of facts under subdivision (a), or if the person's
8 driver's license was suspended pursuant to Section 13388 and the
9 department finds no basis for a suspension pursuant to that section,
10 the department shall immediately reinstate the person's privilege
11 to operate a motor vehicle if the department has suspended it
12 administratively pursuant to subdivision (a), and the department
13 shall return or reissue for the remaining term any driver's license
14 that has been taken from the person pursuant to Section 13382 or
15 otherwise. Notwithstanding subdivision (b) of Section 13558, if
16 criminal charges under Section 23140, 23152, or 23153 are not
17 filed by the district attorney because of a lack of evidence, or if
18 those charges are filed but are subsequently dismissed by the court
19 because of an insufficiency of evidence, the person has a renewed
20 right to request an administrative hearing before the department.
21 The request for a hearing shall be made within one year from the
22 date of arrest.

23 (f) The department shall furnish a form that requires a detailed
24 explanation specifying which evidence was defective or lacking
25 and detailing why that evidence was defective or lacking. The form
26 shall be made available to the person to provide to the district
27 attorney. The department shall hold an administrative hearing, and
28 the hearing officer shall consider the reasons for the failure to
29 prosecute given by the district attorney on the form provided by
30 the department. If applicable, the hearing officer shall consider
31 the reasons stated on the record by a judge who dismisses the
32 charges. A fee shall not be imposed pursuant to Section 14905 for
33 the return or reissuing of a driver's license pursuant to this
34 subdivision. The disposition of a suspension action under this
35 section does not affect an action to suspend or revoke the person's
36 privilege to operate a motor vehicle under another provision of
37 this code, including, but not limited to, Section 13352 or 13353,
38 or Chapter 3 (commencing with Section 13800).

1 ~~SEC. 221.~~

2 *SEC. 220.* Section 21251 of the Vehicle Code is amended to
3 read:

4 21251. Except as provided in Chapter 7 (commencing with
5 Section 1963) and Chapter 8 (commencing with Section 1965) of
6 Division 2.5 of the Streets and Highways Code, and Sections 4023,
7 21115, and 21115.1, a low-speed vehicle is subject to all the
8 provisions applicable to a motor vehicle, and the driver of a
9 low-speed vehicle is subject to all the provisions applicable to the
10 driver of a motor vehicle or other vehicle, when applicable, by this
11 code or another code, with the exception of those provisions that,
12 by their very nature, can have no application.

13 ~~SEC. 222.~~

14 *SEC. 221.* Section 22511.85 of the Vehicle Code is amended
15 to read:

16 22511.85. A vehicle, identified with a special license plate
17 issued pursuant to Section 5007 or a distinguishing placard issued
18 pursuant to Section 22511.55 or 22511.59, which is equipped with
19 a lift, ramp, or assistive equipment that is used for the loading and
20 unloading of a person with a disability may park in not more than
21 two adjacent stalls or spaces on a street or highway or in a public
22 or private off-street parking facility if the equipment has been or
23 will be used for loading or unloading a person with a disability,
24 and if there is no single parking space immediately available on
25 the street or highway or within the facility that is suitable for that
26 purpose, including, but not limited to, when there is not sufficient
27 space to operate a vehicle lift, ramp, or assistive equipment, or
28 there is not sufficient room for a person with a disability to exit
29 the vehicle or maneuver once outside the vehicle.

30 ~~SEC. 223.~~

31 *SEC. 222.* Section 24617 of the Vehicle Code is amended to
32 read:

33 24617. (a) A transit bus may be authorized to be equipped
34 with a yield right-of-way sign on the left rear of the bus. The yield
35 right-of-way sign may flash simultaneously with the rear turn
36 signal lamps, but is not required to do so. The sign shall be both
37 of the following:

38 (1) Designed to warn a person operating a motor vehicle
39 approaching the rear of the bus that the bus is entering traffic.

1 (2) Illuminated by a red flashing light when the bus is signaling
2 in preparation for entering a traffic lane after having stopped to
3 receive or discharge passengers.

4 (b) This section does not require a transit agency to install the
5 yield right-of-way sign described in subdivision (a).

6 (c) This section does not relieve the driver of a transit bus from
7 the duty to drive the bus with due regard for the safety of all
8 persons and property. This section does not exempt the driver of
9 a transit bus from Section 21804.

10 (d) This section applies only to the Santa Cruz Metropolitan
11 Transit District and the Santa Clara Valley Transportation
12 Authority, if the governing board of the applicable entity approves
13 a resolution, after a public hearing on the issue, requesting that
14 this section be made applicable to it.

15 (e) A participating transit agency shall undertake a public
16 education program to encourage motorists to yield to a transit bus
17 when the sign specified in subdivision (a) is activated.

18 ~~SEC. 224.~~

19 *SEC. 223.* Section 27315 of the Vehicle Code is amended to
20 read:

21 27315. (a) The Legislature finds that a mandatory seatbelt law
22 will contribute to reducing highway deaths and injuries by
23 encouraging greater usage of existing manual seatbelts, that
24 automatic crash protection systems which require no action by
25 vehicle occupants offer the best hope of reducing deaths and
26 injuries, and that encouraging the use of manual safety belts is
27 only a partial remedy for addressing this major cause of death and
28 injury. The Legislature declares that the enactment of this section
29 is intended to be compatible with support for federal safety
30 standards requiring automatic crash protection systems and should
31 not be used in any manner to rescind federal requirements for
32 installation of automatic restraints in new cars.

33 (b) This section shall be known and may be cited as the Motor
34 Vehicle Safety Act.

35 (c) (1) As used in this section, “motor vehicle” means a
36 passenger vehicle, a motortruck, or a truck tractor, but does not
37 include a motorcycle.

38 (2) For purposes of this section, a “motor vehicle” also means
39 a farm labor vehicle, regardless of the date of certification under
40 Section 31401.

1 (d) (1) A person shall not operate a motor vehicle on a highway
2 unless that person and all passengers 16 years of age or over are
3 properly restrained by a safety belt. This paragraph does not apply
4 to the operator of a taxicab, as defined in Section 27908, when the
5 taxicab is driven on a city street and is engaged in the transportation
6 of a fare-paying passenger. The safety belt requirement established
7 by this paragraph is the minimum safety standard applicable to
8 employees being transported in a motor vehicle. This paragraph
9 does not preempt more stringent or restrictive standards imposed
10 by the Labor Code or another state or federal regulation regarding
11 the transportation of employees in a motor vehicle.

12 (2) The operator of a limousine for hire or the operator of an
13 authorized emergency vehicle, as defined in subdivision (a) of
14 Section 165, shall not operate the limousine for hire or authorized
15 emergency vehicle unless the operator and any passengers six
16 years of age or over or weighing 60 pounds or more in the front
17 seat are properly restrained by a safety belt.

18 (3) The operator of a taxicab shall not operate the taxicab unless
19 any passengers six years of age or over or weighing 60 pounds or
20 more in the front seat are properly restrained by a safety belt.

21 (e) A person 16 years of age or over shall not be a passenger in
22 a motor vehicle on a highway unless that person is properly
23 restrained by a safety belt. This subdivision does not apply to a
24 passenger in a sleeper berth, as defined in subdivision (x) of Section
25 1201 of Title 13 of the California Code of Regulations.

26 (f) An owner of a motor vehicle, including an owner or operator
27 of a taxicab, as defined in Section 27908, or a limousine for hire,
28 operated on a highway shall maintain safety belts in good working
29 order for the use of occupants of the vehicle. The safety belts shall
30 conform to motor vehicle safety standards established by the United
31 States Department of Transportation. This subdivision, however,
32 does not require installation or maintenance of safety belts if not
33 required by the laws of the United States applicable to the vehicle
34 at the time of its initial sale.

35 (g) This section does not apply to a passenger or operator with
36 a physically disabling condition or medical condition that would
37 prevent appropriate restraint in a safety belt, if the condition is
38 duly certified by a licensed physician and surgeon or by a licensed
39 chiropractor who shall state the nature of the condition, as well as
40 the reason the restraint is inappropriate. This section also does not

1 apply to a public employee, when in an authorized emergency
2 vehicle as defined in paragraph (1) of subdivision (b) of Section
3 165, or to a passenger in a seat behind the front seat of an
4 authorized emergency vehicle as defined in paragraph (1) of
5 subdivision (b) of Section 165 operated by the public employee,
6 unless required by the agency employing the public employee.

7 (h) Notwithstanding subdivision (a) of Section 42001, a violation
8 of subdivision (d), (e), or (f) is an infraction punishable by a fine
9 of not more than twenty dollars (\$20) for a first offense, and a fine
10 of not more than fifty dollars (\$50) for each subsequent offense.
11 In lieu of the fine and any penalty assessment or court costs, the
12 court, pursuant to Section 42005, may order that a person convicted
13 of a first offense attend a school for traffic violators or another
14 court-approved program in which the proper use of safety belts is
15 demonstrated.

16 (i) In a civil action, a violation of subdivision (d), (e), or (f) or
17 information of a violation of subdivision (h) does not establish
18 negligence as a matter of law or negligence per se for comparative
19 fault purposes, but negligence may be proven as a fact without
20 regard to the violation.

21 (j) If the United States Secretary of Transportation fails to adopt
22 safety standards for manual safety belt systems by September 1,
23 1989, a motor vehicle manufactured after that date for sale or sold
24 in this state shall not be registered unless it contains a manual
25 safety belt system that meets the performance standards applicable
26 to automatic crash protection devices adopted by the United States
27 Secretary of Transportation pursuant to Federal Motor Vehicle
28 Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on
29 January 1, 1985.

30 (k) A motor vehicle offered for original sale in this state which
31 has been manufactured on or after September 1, 1989, shall comply
32 with the automatic restraint requirements of Section S4.1.2.1 of
33 Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R.
34 571.208), as published in Volume 49 of the Federal Register, No.
35 138, page 29009. An automobile manufacturer that sells or delivers
36 a motor vehicle subject to this subdivision, and fails to comply
37 with this subdivision, shall be punished by a fine of not more than
38 five hundred dollars (\$500) for each sale or delivery of a
39 noncomplying motor vehicle.

1 (l) Compliance with subdivision (j) or (k) by a manufacturer
2 shall be made by self-certification in the same manner as
3 self-certification is accomplished under federal law.

4 (m) This section does not apply to a person actually engaged in
5 delivery of newspapers to customers along the person’s route if
6 the person is properly restrained by a safety belt prior to
7 commencing and subsequent to completing delivery on the route.

8 (n) This section does not apply to a person actually engaged in
9 collection and delivery activities as a rural delivery carrier for the
10 United States Postal Service if the person is properly restrained
11 by a safety belt prior to stopping at the first box and subsequent
12 to stopping at the last box on the route.

13 (o) This section does not apply to a driver actually engaged in
14 the collection of solid waste or recyclable materials along that
15 driver’s collection route if the driver is properly restrained by a
16 safety belt prior to commencing and subsequent to completing the
17 collection route.

18 (p) Subdivisions (d), (e), (f), (g), and (h) shall become
19 inoperative immediately upon the date that the United States
20 Secretary of Transportation, or his or her delegate, determines to
21 rescind the portion of the Federal Motor Vehicle Safety Standard
22 No. 208 (49 C.F.R. 571.208) which requires the installation of
23 automatic restraints in new motor vehicles, except that those
24 subdivisions shall not become inoperative if the secretary’s decision
25 to rescind that Standard No. 208 is not based, in any respect, on
26 the enactment or continued operation of those subdivisions.

27 ~~SEC. 225.~~

28 *SEC. 224.* Section 40002 of the Vehicle Code is amended to
29 read:

30 40002. (a) (1) If there is a violation of Section 40001, an
31 owner or other person subject to Section 40001, who was not
32 driving the vehicle involved in the violation, may be mailed a
33 written notice to appear. An exact and legible duplicate copy of
34 that notice when filed with the court, in lieu of a verified complaint,
35 is a complaint to which the defendant may plead “guilty.”

36 (2) If, however, the defendant fails to appear in court or does
37 not deposit lawful bail, or pleads other than “guilty” of the offense
38 charged, a verified complaint shall be filed which shall be deemed
39 to be an original complaint, and thereafter proceedings shall be
40 had as provided by law, except that a defendant may, by an

1 agreement in writing, subscribed by the defendant and filed with
2 the court, waive the filing of a verified complaint and elect that
3 the prosecution may proceed upon a written notice to appear.

4 (3) A verified complaint pursuant to paragraph (2) shall include
5 a paragraph that informs the person that unless he or she appears
6 in the court designated in the complaint within 21 days after being
7 given the complaint and answers the charge, renewal of registration
8 of the vehicle involved in the offense may be precluded by the
9 department, or a warrant of arrest may be issued against him or
10 her.

11 (b) (1) If a person mailed a notice to appear pursuant to
12 paragraph (1) of subdivision (a) fails to appear in court or deposit
13 bail, a warrant of arrest shall not be issued based on the notice to
14 appear, even if that notice is verified. An arrest warrant may be
15 issued only after a verified complaint pursuant to paragraph (2) of
16 subdivision (a) is given the person and the person fails to appear
17 in court to answer that complaint.

18 (2) If a person mailed a notice to appear pursuant to paragraph
19 (1) of subdivision (a) fails to appear in court or deposit bail, the
20 court may give by mail to the person a notice of noncompliance.
21 A notice of noncompliance shall include a paragraph that informs
22 the person that unless he or she appears in the court designated in
23 the notice to appear within 21 days after being given by mail the
24 notice of noncompliance and answers the charge on the notice to
25 appear, or pays the applicable fine and penalties if an appearance
26 is not required, renewal of registration of the vehicle involved in
27 the offense may be precluded by the department.

28 (c) A verified complaint filed pursuant to this section shall
29 conform to Chapter 2 (commencing with Section 948) of Title 5
30 of Part 2 of the Penal Code.

31 (d) (1) The giving by mail of a notice to appear pursuant to
32 paragraph (1) of subdivision (a) or a notice of noncompliance
33 pursuant to paragraph (2) of subdivision (b) shall be done in a
34 manner prescribed by Section 22.

35 (2) The verified complaint pursuant to paragraph (2) of
36 subdivision (a) shall be given in a manner prescribed by Section
37 22.

38 ~~SEC. 226.~~

39 *SEC. 225.* Section 40240 of the Vehicle Code is amended to
40 read:

1 40240. (a) The City and County of San Francisco may install
2 automated forward facing parking control devices on city-owned
3 public transit vehicles, as defined by Section 99211 of the Public
4 Utilities Code, for the purpose of video imaging of parking
5 violations occurring in transit-only traffic lanes. Citations shall be
6 issued only for violations captured during the posted hours of
7 operation for a transit-only traffic lane. The devices shall be angled
8 and focused so as to capture video images of parking violations
9 and not unnecessarily capture identifying images of other drivers,
10 vehicles, and pedestrians.

11 (b) Prior to issuing notices of parking violations pursuant to
12 subdivision (a) of Section 40241, the City and County of San
13 Francisco shall commence a program to issue only warning notices
14 for 30 days. The City and County of San Francisco shall also make
15 a public announcement of the program at least 30 days prior to
16 commencement of issuing notices of parking violations.

17 (c) A designated employee of the City and County of San
18 Francisco, who is qualified by the city and county to issue parking
19 citations, shall review video image recordings for the purpose of
20 determining whether a parking violation occurred in a transit-only
21 traffic lane. A violation of a statute, regulation, or ordinance
22 governing vehicle parking under this code, under a federal or state
23 statute or regulation, or under an ordinance enacted by the City
24 and County of San Francisco occurring in a transit-only traffic
25 lane observed by the designated employee in the recordings is
26 subject to a civil penalty.

27 (d) The registered owner shall be permitted to review the video
28 image evidence of the alleged violation during normal business
29 hours at no cost.

30 (e) (1) Except as it may be included in court records described
31 in Section 68152 of the Government Code, or as provided in
32 paragraph (2), the video image evidence may be retained for up
33 to six months from the date the information was first obtained, or
34 60 days after final disposition of the citation, whichever date is
35 later, after which time the information shall be destroyed.

36 (2) Notwithstanding Section 26202.6 of the Government Code,
37 video image evidence from forward facing automated enforcement
38 devices that does not contain evidence of a parking violation
39 occurring in a transit-only traffic lane shall be destroyed within
40 15 days after the information was first obtained.

1 (f) Notwithstanding Section 6253 of the Government Code, or
2 any other provision of law, the video image records are
3 confidential. Public agencies shall use and allow access to these
4 records only for the purposes authorized by this article.

5 (g) For purposes of this article, “local agency” means the City
6 and County of San Francisco.

7 (h) For purposes of this article, “transit-only traffic lane” means
8 any of the designated transit-only lanes that were designated on
9 or before January 1, 2008, on Beach Street, Bush Street, Clay
10 Street, First Street, Fourth Street, Fremont Street, Geary Boulevard,
11 Jefferson Street, Jones Street, Mission Street, Market Street,
12 O’Farrell Street, Post Street, Potrero Street, Sacramento Street,
13 Sansome Street, Stockton Street, Sutter Street, and Third Street.

14 (i) Video images captured pursuant to this article shall not be
15 transmitted wirelessly.

16 ~~SEC. 227.~~

17 *SEC. 226.* Section 8201 of the Water Code is amended to read:

18 8201. (a) A local agency may prepare a local plan of flood
19 protection in accordance with this chapter.

20 (b) A local plan of flood protection shall include all of the
21 following:

22 (1) A strategy to meet the urban level of flood protection,
23 including planning for residual flood risk and system resiliency.

24 (2) Identification of all types of flood hazards.

25 (3) Identification and risk assessment of the various facilities
26 that provide flood protection for flood hazard areas, for current
27 and future land uses.

28 (4) Identification of current and future flood corridors.

29 (5) Identification of needed improvements and costs of those
30 improvements to the flood protection facilities that are necessary
31 to meet flood protection standards.

32 (6) An emergency response and evacuation plan for flood-prone
33 areas.

34 (7) A strategy to achieve multiple benefits, including flood
35 protection, groundwater recharge, ecosystem health, and reduced
36 maintenance costs over the long term.

37 (8) A long-term funding strategy for improvement and ongoing
38 maintenance and operation of flood protection facilities.

39 (c) A local agency that is not a city or county that prepares a
40 plan pursuant to this chapter shall consult with the cities and

1 counties that have jurisdiction over the planning area to ensure
2 that the local plan of flood protection is consistent with local
3 general plans.

4 (d) Plans prepared pursuant to this chapter, within the
5 Sacramento-San Joaquin Valley as defined by Section 9602, shall
6 be consistent with the Central Valley Flood Protection Plan
7 pursuant to Section 9612.

8 ~~SEC. 228.~~

9 *SEC. 227.* Section 8610.5 of the Water Code, as added by
10 Section 17 of Chapter 365 of the Statutes of 2007, is repealed.

11 ~~SEC. 229.~~

12 *SEC. 228.* Section 8610.5 of the Water Code, as added by
13 Section 21 of Chapter 366 of the Statutes of 2007, is amended to
14 read:

15 8610.5. (a) (1) The board shall adopt regulations relating to
16 evidentiary hearings pursuant to Chapter 4.5 (commencing with
17 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
18 Code.

19 (2) The board shall hold an evidentiary hearing for any matter
20 that requires the issuance of a permit.

21 (3) The board is not required to hold an evidentiary hearing
22 before making a decision relating to general flood protection policy
23 or planning.

24 (b) The board may take an action pursuant to Section 8560 only
25 after allowing for public comment.

26 (c) The board shall, in any evidentiary hearing, consider all of
27 the following, as applicable, for the purpose of taking any action
28 pursuant to Section 8560:

29 (1) Evidence that the board admits into its record from any party,
30 state or local public agency, or nongovernmental organization with
31 expertise in flood or flood plain management.

32 (2) The best available science that relates to the scientific issues
33 presented by the executive officer, legal counsel, the department,
34 or other parties that raise credible scientific issues.

35 (3) Effects of the proposed decision on the entire State Plan of
36 Flood Control.

37 (4) Effects of reasonably projected future events, including, but
38 not limited to, changes in hydrology, climate, and development
39 within the applicable watershed.

1 ~~SEC. 230.~~

2 *SEC. 229.* Section 9602 of the Water Code is amended to read:
3 9602. Unless the context requires otherwise, the definitions
4 set forth in this section govern the construction of this part.

5 (a) “Board” means the Central Valley Flood Protection Board.

6 (b) “Plan” means the Central Valley Flood Protection Plan.

7 (c) “Project levee” means a levee that is part of the facilities of
8 the State Plan of Flood Control.

9 (d) “Public safety infrastructure” means public safety
10 infrastructure necessary to respond to a flood emergency, including,
11 but not limited to, street and highway evacuation routes, public
12 utilities necessary for public health and safety, including drinking
13 water and wastewater treatment facilities, and hospitals.

14 (e) “Sacramento-San Joaquin Valley” means lands in the bed
15 or along or near the banks of the Sacramento River or San Joaquin
16 River, or their tributaries or connected therewith, or upon any land
17 adjacent thereto, or within the overflow basins thereof, or upon
18 land susceptible to overflow therefrom. The Sacramento-San
19 Joaquin Valley does not include lands lying within the Tulare Lake
20 basin, including the Kings River.

21 (f) “State Plan of Flood Control” has the meaning set forth in
22 subdivision (j) of Section 5096.805 of the Public Resources Code.

23 (g) “System” means the Sacramento-San Joaquin River Flood
24 Management System described in Section 9611.

25 (h) “Urban area” has the same meaning as that set forth in
26 subdivision (k) of Section 5096.805 of the Public Resources Code.

27 (i) “Urban level of flood protection” means the level of
28 protection that is necessary to withstand flooding that has a
29 1-in-200 chance of occurring in any given year using criteria
30 consistent with, or developed by, the department.

31 ~~SEC. 231.~~

32 *SEC. 230.* Section 9610 of the Water Code is amended to read:
33 9610. (a) (1) By July 1, 2008, the department shall develop
34 preliminary maps for the 100- and 200-year flood plains protected
35 by project levees. The 100-year flood plain maps shall be prepared
36 using criteria developed or accepted by the Federal Emergency
37 Management Agency (FEMA).

38 (2) The department shall use available information from the
39 2002 Sacramento-San Joaquin River Basin Comprehensive Study,
40 preliminary and regulatory FEMA flood insurance rate maps,

1 recent flood plain studies, and other sources to compile preliminary
2 maps.

3 (3) The department shall provide the preliminary maps to cities
4 and counties within the Sacramento-San Joaquin Valley for use
5 as best available information relating to flood protection.

6 (4) The department shall post this information on the board's
7 Internet Web site and may periodically update the maps as
8 necessary.

9 (b) By July 1, 2008, the department shall give notice to cities
10 in the Sacramento-San Joaquin Valley outside areas protected by
11 project levees regarding maps and other information as to flood
12 risks available from the Federal Emergency Management Agency
13 or another federal, state, or local agency.

14 (c) On or before December 31, 2010, the department shall
15 prepare a status report on the progress and development of the
16 Central Valley Flood Protection Plan pursuant to Section 9612.
17 The department shall post this information on the board's Internet
18 Web site, and make it available to the public.

19 ~~SEC. 232.~~

20 *SEC. 231.* Section 9614 of the Water Code is amended to read:
21 9614. The plan shall include all of the following:

22 (a) A description of the Sacramento-San Joaquin River Flood
23 Management System and the cities and counties included in the
24 system.

25 (b) A description of the performance of the system and the
26 challenges to modifying the system to provide appropriate levels
27 of flood protection using available information.

28 (c) A description of the facilities included in the State Plan of
29 Flood Control, including all of the following:

30 (1) The precise location and a brief description of each facility,
31 a description of the population and property protected by the
32 facility, the system benefits provided by the facility, if any, and a
33 brief history of the facility, including the year of construction,
34 major improvements to the facility, and any failures of the facility.

35 (2) The design capacity of each facility.

36 (3) A description and evaluation of the performance of each
37 facility, including the following:

38 (A) An evaluation of failure risks due to each of the following:

39 (i) Overtopping.

40 (ii) Under seepage and seepage.

1 (iii) Structural failure.

2 (iv) Other sources of risk, including seismic risks, that the
3 department or the board determines are applicable.

4 (B) A description of any uncertainties regarding performance
5 capability, including uncertainties arising from the need for
6 additional engineering evaluations or uncertainties arising from
7 changed conditions such as changes in estimated channel
8 capacities.

9 (d) A description of each existing dam that is not part of the
10 State Plan of Flood Control that provides either significant
11 systemwide benefits for managing flood risks within the
12 Sacramento-San Joaquin Valley or protects urban areas within the
13 Sacramento-San Joaquin Valley.

14 (e) A description of each existing levee and other flood
15 management facility not described in subdivision (d) that is not
16 part of the State Plan of Flood Control and that provides either
17 significant systemwide benefits for managing flood risks within
18 the Sacramento-San Joaquin Valley or protects an urban area.

19 (f) A description of the probable impacts of projected climate
20 change, projected land use patterns, and other potential flood
21 management challenges on the ability of the system to provide
22 adequate levels of flood protection.

23 (g) An evaluation of the structural improvements and repairs
24 necessary to bring each of the facilities of the State Plan of Flood
25 Control to within its design standard. The evaluation shall include
26 a prioritized list of recommended actions necessary to bring each
27 facility not identified in subdivision (h) to within its design
28 standard.

29 (h) The evaluation shall include a list of facilities recommended
30 to be removed from the State Plan of Flood Control. For each
31 facility recommended for removal, the evaluation shall identify
32 both of the following:

33 (1) The reasons for proposing the removal of the facility from
34 the State Plan of Flood Control.

35 (2) Any additional recommended actions associated with
36 removing the facility from the State Plan of Flood Control.

37 (i) A description of both structural and nonstructural methods
38 for providing an urban level of flood protection to current urban
39 areas. The description shall also include a list of recommended
40 next steps to improve urban flood protection.

1 (j) A description of structural and nonstructural means for
2 enabling or improving systemwide riverine ecosystem function,
3 including, but not limited to, establishment of riparian habitat and
4 seasonal inundation of available flood plains where feasible.

5 ~~SEC. 233.~~

6 *SEC. 232.* Section 9625 of the Water Code, as added by Section
7 9 of Chapter 364 of the Statutes of 2007, is amended to read:

8 9625. (a) By January 1, 2010, the department shall develop
9 cost-sharing formulas, as needed, for funds made available by the
10 Disaster Preparedness and Flood Prevention Bond Act of 2006
11 (Chapter 1.699 (commencing with Section 5096.800) of Division
12 5 of the Public Resources Code) and the Safe Drinking Water,
13 Water Quality and Supply, Flood Control, River and Coastal
14 Protection Bond Act of 2006 (Division 43 (commencing with
15 Section 75001) of the Public Resources Code) for repairs or
16 improvements of facilities included in the plan to determine the
17 local share of the cost of design and construction.

18 (b) The cost-sharing formulas developed by the department
19 shall be established pursuant to Section 12585.7.

20 (c) In developing a cost-sharing formula, the department shall
21 consider the ability of local governments to pay their share of the
22 capital costs of the project.

23 (d) Prior to finalizing cost-sharing formulas, the department
24 shall conduct public meetings to consider public comments. The
25 department shall post a draft cost-sharing formula on its Internet
26 Web site at least 30 days before the public meetings. To the extent
27 feasible, the department shall provide outreach to disadvantaged
28 communities to promote access and participation in the meetings.

29 ~~SEC. 234.~~

30 *SEC. 233.* Section 9625 of the Water Code, as added by Section
31 26 of Chapter 366 of the Statutes of 2007, is amended to read:

32 9625. (a) By January 1, 2010, the department shall develop
33 cost-sharing formulas, as needed, for funds made available by the
34 Disaster Preparedness and Flood Prevention Bond Act of 2006
35 (Chapter 1.699 (commencing with Section 5096.800) of Division
36 5 of the Public Resources Code) and the Safe Drinking Water,
37 Water Quality and Supply, Flood Control, River and Coastal
38 Protection Bond Act of 2006 (Division 43 (commencing with
39 Section 75001) of the Public Resources Code) for repairs or

1 improvements of facilities included in the plan to determine the
2 local share of the cost of design and construction.

3 (b) For qualifying projects pursuant to subdivision (a), the state's
4 share of the nonfederal share shall be set at a minimum level of
5 50 percent.

6 (c) In developing cost-sharing formulas, the department shall
7 consider the ability of local governments to pay their share of the
8 capital costs of the project.

9 (d) Prior to finalizing cost-sharing formulas, the department
10 shall conduct public meetings to consider public comments. The
11 department shall post a draft cost-sharing formula on its Internet
12 Web site at least 30 days before the public meetings. To the extent
13 feasible, the department shall provide outreach to disadvantaged
14 communities to promote access and participation in the meetings.

15 ~~SEC. 235.~~

16 *SEC. 234.* Section 13478 of the Water Code is amended to
17 read:

18 13478. The board may undertake any of the following:

19 (a) Enter into agreements with the federal government for federal
20 contributions to the fund.

21 (b) Accept federal contributions to the fund.

22 (c) Enter into an agreement with, and accept matching funds
23 from, a municipality. A municipality that seeks to enter into an
24 agreement with the board and provide matching funds pursuant to
25 this subdivision shall provide to the board evidence of the
26 availability of those funds in the form of a written resolution
27 adopted by the governing body of the municipality before it
28 requests a preliminary loan commitment.

29 (d) Use moneys in the fund for the purposes permitted by the
30 federal act.

31 (e) Provide for the deposit of matching funds and other available
32 and necessary moneys into the fund.

33 (f) Make requests on behalf of the state for deposit into the fund
34 of available federal moneys under the federal act and determine
35 on behalf of the state appropriate maintenance of progress toward
36 compliance with the enforceable deadlines, goals, and requirements
37 of the federal act.

38 (g) Determine on behalf of the state that publicly owned
39 treatment works that receive financial assistance from the fund

1 will meet the requirements of, and otherwise be treated as required
2 by, the federal act.

3 (h) Provide for appropriate audit, accounting, and fiscal
4 management services, plans, and reports relative to the fund.

5 (i) Take additional incidental action as appropriate for the
6 adequate administration and operation of the fund.

7 (j) Charge municipalities that elect to provide matching funds
8 a fee to cover the actual cost of obtaining the federal funds pursuant
9 to Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7))
10 and processing the loan application. The fee shall be waived by
11 the board if sufficient funds to cover those costs are available from
12 other sources.

13 (k) Use moneys returned to the fund under clause (ii) of
14 subparagraph (D) of paragraph (1) of subdivision (b) of Section
15 13480, and any other source of matching funds, if not prohibited
16 by statute, as matching funds for the federal administrative
17 allowance under Section 603(d)(7) of the federal act (33 U.S.C.
18 Sec. 1383(d)(7)).

19 (l) Expend moneys repaid by loan recipients for loan service
20 under clauses (i) and (ii) of subparagraph (D) of paragraph (1) of
21 subdivision (b) of Section 13480 to pay administrative costs
22 incurred by the board under this chapter.

23 ~~SEC. 236.~~

24 SEC. 235. Section 13480 of the Water Code is amended to
25 read:

26 13480. (a) Moneys in the fund shall be used only for the
27 permissible purposes allowed by the federal act, including
28 providing financial assistance for the following purposes:

29 (1) The construction of publicly owned treatment works, as
30 defined by Section 212 of the federal act (33 U.S.C. Sec. 1292),
31 by any municipality.

32 (2) Implementation of a management program pursuant to
33 Section 319 of the federal act (33 U.S.C. Sec. 1329).

34 (3) Development and implementation of a conservation and
35 management plan under Section 320 of the federal act (33 U.S.C.
36 Sec. 1330).

37 (4) Financial assistance, other than a loan, toward the nonfederal
38 share of costs of any grant-funded treatment works project, but
39 only if that assistance is necessary to permit the project to proceed.

- 1 (b) Consistent with expenditure for authorized purposes, moneys
2 in the fund may be used for the following purposes:
- 3 (1) Loans that meet all of the following requirements:
- 4 (A) Are made at or below market interest rates.
- 5 (B) Require annual payments of principal and any interest, with
6 repayment commencing not later than one year after completion
7 of the project for which the loan is made and full amortization not
8 later than 20 years after project completion.
- 9 (C) Require the loan recipient to establish an acceptable
10 dedicated source of revenue for repayment of a loan.
- 11 (D) (i) Contain other terms and conditions required by the board
12 or the federal act or applicable rules, regulations, guidelines, and
13 policies. To the extent permitted by federal law, the combined
14 interest and loan service rate shall be set at a rate that does not
15 exceed 50 percent of the interest rate paid by the state on the most
16 recent sale of state general obligation bonds and the combined
17 interest and loan service rate shall be computed according to the
18 true interest cost method. If the combined interest and loan service
19 rate so determined is not a multiple of one-tenth of 1 percent, the
20 combined interest and loan service rate shall be set at the multiple
21 of one-tenth of 1 percent next above the combined interest and
22 loan service rate so determined. A loan from the fund used to
23 finance costs of facilities planning, or the preparation of plans,
24 specifications, or estimates for construction of publicly owned
25 treatment works shall comply with Section 603(e) of the federal
26 act (33 U.S.C. Sec. 1383(e)).
- 27 (ii) Notwithstanding clause (i), if the loan applicant is a
28 municipality, an applicant for a loan for the implementation of a
29 management program pursuant to Section 319 of the federal Clean
30 Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for
31 nonpoint source or estuary enhancement pursuant to Section 320
32 of the federal Clean Water Act (33 U.S.C. Sec. 1330), and the
33 applicant provides matching funds, the combined interest and loan
34 service rate on the loan shall be 0 percent. A loan recipient that
35 returns to the fund an amount of money equal to 20 percent of the
36 remaining unpaid federal balance of an existing loan shall have
37 the remaining unpaid loan balance refinanced at a combined interest
38 and loan service rate of 0 percent over the time remaining in the
39 original loan contract.

1 (2) To buy or refinance the debt obligations of municipalities
2 within the state at or below market rates if those debt obligations
3 were incurred after March 7, 1985.

4 (3) To guarantee, or purchase insurance for, local obligations
5 where that action would improve credit market access or reduce
6 interest rates.

7 (4) As a source of revenue or security for the payment of
8 principal and interest on revenue or general obligation bonds issued
9 by the state, if the proceeds of the sale of those bonds will be
10 deposited in the fund.

11 (5) To establish loan guarantees for similar revolving funds
12 established by municipalities.

13 (6) To earn interest.

14 (7) For payment of the reasonable costs of administering the
15 fund and conducting activities under Title VI (commencing with
16 Section 601) of the federal act (33 U.S.C. Sec. 1381 et seq.). Those
17 costs shall not exceed 4 percent of all federal contributions to the
18 fund, except that if permitted by federal and state law, interest
19 repayments into the fund and other moneys in the fund may be
20 used to defray additional administrative and activity costs to the
21 extent permitted by the federal government and approved by the
22 Legislature in the Budget Act.

23 (8) For financial assistance toward the nonfederal share of the
24 costs of grant-funded treatment works projects to the extent
25 permitted by the federal act.

26 ~~SEC. 237.~~

27 *SEC. 236.* Section 707 of the Welfare and Institutions Code is
28 amended to read:

29 707. (a) (1) In any case in which a minor is alleged to be a
30 person described in subdivision (a) of Section 602 by reason of
31 the violation, when he or she was 16 years of age or older, of any
32 criminal statute or ordinance except those listed in subdivision (b),
33 upon motion of the petitioner made prior to the attachment of
34 jeopardy the court shall cause the probation officer to investigate
35 and submit a report on the behavioral patterns and social history
36 of the minor being considered for a determination of unfitness.
37 Following submission and consideration of the report, and of any
38 other relevant evidence that the petitioner or the minor may wish
39 to submit, the juvenile court may find that the minor is not a fit
40 and proper subject to be dealt with under the juvenile court law if

1 it concludes that the minor would not be amenable to the care,
2 treatment, and training program available through the facilities of
3 the juvenile court, based upon an evaluation of the following
4 criteria:

5 (A) The degree of criminal sophistication exhibited by the minor.

6 (B) Whether the minor can be rehabilitated prior to the
7 expiration of the juvenile court's jurisdiction.

8 (C) The minor's previous delinquent history.

9 (D) Success of previous attempts by the juvenile court to
10 rehabilitate the minor.

11 (E) The circumstances and gravity of the offense alleged in the
12 petition to have been committed by the minor.

13 A determination that the minor is not a fit and proper subject to
14 be dealt with under the juvenile court law may be based on any
15 one or a combination of the factors set forth above, which shall be
16 recited in the order of unfitness. In any case in which a hearing
17 has been noticed pursuant to this section, the court shall postpone
18 the taking of a plea to the petition until the conclusion of the fitness
19 hearing, and no plea that may have been entered already shall
20 constitute evidence at the hearing.

21 (2) (A) This paragraph shall apply to a minor alleged to be a
22 person described in Section 602 by reason of the violation, when
23 he or she has attained 16 years of age, of any felony offense when
24 the minor has been declared to be a ward of the court pursuant to
25 Section 602 on one or more prior occasions if both of the following
26 apply:

27 (i) The minor has previously been found to have committed two
28 or more felony offenses.

29 (ii) The offenses upon which the prior petition or petitions were
30 based were committed when the minor had attained 14 years of
31 age.

32 (B) Upon motion of the petitioner made prior to the attachment
33 of jeopardy the court shall cause the probation officer to investigate
34 and submit a report on the behavioral patterns and social history
35 of the minor being considered for a determination of unfitness.
36 Following submission and consideration of the report, and of any
37 other relevant evidence that the petitioner or the minor may wish
38 to submit, the minor shall be presumed to be not a fit and proper
39 subject to be dealt with under the juvenile court law unless the
40 juvenile court concludes, based upon evidence, which evidence

1 may be of extenuating or mitigating circumstances, that the minor
2 would be amenable to the care, treatment, and training program
3 available through the facilities of the juvenile court based upon an
4 evaluation of the following criteria:

5 (i) The degree of criminal sophistication exhibited by the minor.

6 (ii) Whether the minor can be rehabilitated prior to the expiration
7 of the juvenile court's jurisdiction.

8 (iii) The minor's previous delinquent history.

9 (iv) Success of previous attempts by the juvenile court to
10 rehabilitate the minor.

11 (v) The circumstances and gravity of the offense alleged in the
12 petition to have been committed by the minor.

13 A determination that the minor is a fit and proper subject to be
14 dealt with under the juvenile court law shall be based on a finding
15 of amenability after consideration of the criteria set forth above,
16 and findings therefore recited in the order as to each of the above
17 criteria that the minor is fit and proper under each and every one
18 of the above criteria. In making a finding of fitness, the court may
19 consider extenuating and mitigating circumstances in evaluating
20 each of the above criteria. In any case in which the hearing has
21 been noticed pursuant to this section, the court shall postpone the
22 taking of a plea to the petition until the conclusion of the fitness
23 hearing and no plea which may have been entered already shall
24 constitute evidence at the hearing. If the minor is found to be a fit
25 and proper subject to be dealt with under the juvenile court law
26 pursuant to this subdivision, the minor shall be committed to
27 placement in a juvenile hall, ranch camp, forestry camp, boot camp,
28 or secure juvenile home pursuant to Section 730, or in any
29 institution operated by the Department of Corrections and
30 Rehabilitation, Division of Juvenile Facilities.

31 (3) If, pursuant to this subdivision, the minor is found to be not
32 a fit and proper subject for juvenile court treatment and is tried in
33 a court of criminal jurisdiction and found guilty by the trier of fact,
34 the judge may commit the minor to the Department of Corrections
35 and Rehabilitation, Division of Juvenile Facilities, in lieu of
36 sentencing the minor to the state prison, unless the limitations
37 specified in Section 1732.6 apply.

38 (b) Subdivision (c) shall be applicable in any case in which a
39 minor is alleged to be a person described in Section 602 by reason
40 of the violation of one of the following offenses:

- 1 (1) Murder.
- 2 (2) Arson, as provided in subdivision (a) or (b) of Section 451
- 3 of the Penal Code.
- 4 (3) Robbery.
- 5 (4) Rape with force, violence, or threat of great bodily harm.
- 6 (5) Sodomy by force, violence, duress, menace, or threat of
- 7 great bodily harm.
- 8 (6) A lewd or lascivious act as provided in subdivision (b) of
- 9 Section 288 of the Penal Code.
- 10 (7) Oral copulation by force, violence, duress, menace, or threat
- 11 of great bodily harm.
- 12 (8) An offense specified in subdivision (a) of Section 289 of
- 13 the Penal Code.
- 14 (9) Kidnapping for ransom.
- 15 (10) Kidnapping for purposes of robbery.
- 16 (11) Kidnapping with bodily harm.
- 17 (12) Attempted murder.
- 18 (13) Assault with a firearm or destructive device.
- 19 (14) Assault by any means of force likely to produce great bodily
- 20 injury.
- 21 (15) Discharge of a firearm into an inhabited or occupied
- 22 building.
- 23 (16) An offense described in Section 1203.09 of the Penal Code.
- 24 (17) An offense described in Section 12022.5 or 12022.53 of
- 25 the Penal Code.
- 26 (18) A felony offense in which the minor personally used a
- 27 weapon listed in subdivision (a) of Section 12020 of the Penal
- 28 Code.
- 29 (19) A felony offense described in Section 136.1 or 137 of the
- 30 Penal Code.
- 31 (20) Manufacturing, compounding, or selling one-half ounce
- 32 or more of a salt or solution of a controlled substance specified in
- 33 subdivision (e) of Section 11055 of the Health and Safety Code.
- 34 (21) A violent felony, as defined in subdivision (c) of Section
- 35 667.5 of the Penal Code, which also would constitute a felony
- 36 violation of subdivision (b) of Section 186.22 of the Penal Code.
- 37 (22) Escape, by the use of force or violence, from a county
- 38 juvenile hall, home, ranch, camp, or forestry camp in violation of
- 39 subdivision (b) of Section 871 if great bodily injury is intentionally

1 inflicted upon an employee of the juvenile facility during the
2 commission of the escape.

3 (23) Torture as described in Sections 206 and 206.1 of the Penal
4 Code.

5 (24) Aggravated mayhem, as described in Section 205 of the
6 Penal Code.

7 (25) Carjacking, as described in Section 215 of the Penal Code,
8 while armed with a dangerous or deadly weapon.

9 (26) Kidnapping for purposes of sexual assault, as punishable
10 in subdivision (b) of Section 209 of the Penal Code.

11 (27) Kidnapping as punishable in Section 209.5 of the Penal
12 Code.

13 (28) The offense described in subdivision (c) of Section 12034
14 of the Penal Code.

15 (29) The offense described in Section 12308 of the Penal Code.

16 (30) Voluntary manslaughter, as described in subdivision (a)
17 of Section 192 of the Penal Code.

18 (c) With regard to a minor alleged to be a person described in
19 Section 602 by reason of the violation, when he or she was 14
20 years of age or older, of any of the offenses listed in subdivision
21 (b), upon motion of the petitioner made prior to the attachment of
22 jeopardy the court shall cause the probation officer to investigate
23 and submit a report on the behavioral patterns and social history
24 of the minor being considered for a determination of unfitness.
25 Following submission and consideration of the report, and of any
26 other relevant evidence that the petitioner or the minor may wish
27 to submit, the minor shall be presumed to be not a fit and proper
28 subject to be dealt with under the juvenile court law unless the
29 juvenile court concludes, based upon evidence, which evidence
30 may be of extenuating or mitigating circumstances, that the minor
31 would be amenable to the care, treatment, and training program
32 available through the facilities of the juvenile court based upon an
33 evaluation of each of the following criteria:

34 (1) The degree of criminal sophistication exhibited by the minor.

35 (2) Whether the minor can be rehabilitated prior to the expiration
36 of the juvenile court's jurisdiction.

37 (3) The minor's previous delinquent history.

38 (4) Success of previous attempts by the juvenile court to
39 rehabilitate the minor.

1 (5) The circumstances and gravity of the offenses alleged in the
2 petition to have been committed by the minor.

3 A determination that the minor is a fit and proper subject to be
4 dealt with under the juvenile court law shall be based on a finding
5 of amenability after consideration of the criteria set forth above,
6 and findings therefore recited in the order as to each of the above
7 criteria that the minor is fit and proper under each and every one
8 of the above criteria. In making a finding of fitness, the court may
9 consider extenuating or mitigating circumstances in evaluating
10 each of the above criteria. In any case in which a hearing has been
11 noticed pursuant to this section, the court shall postpone the taking
12 of a plea to the petition until the conclusion of the fitness hearing
13 and no plea which may have been entered already shall constitute
14 evidence at the hearing. If, pursuant to this subdivision, the minor
15 is found to be not a fit and proper subject for juvenile court
16 treatment and is tried in a court of criminal jurisdiction and found
17 guilty by the trier of fact, the judge may commit the minor to the
18 Department of Corrections and Rehabilitation, Division of Juvenile
19 Facilities, in lieu of sentencing the minor to the state prison, unless
20 the limitations specified in Section 1732.6 apply.

21 (d) (1) Except as provided in subdivision (b) of Section 602,
22 the district attorney or other appropriate prosecuting officer may
23 file an accusatory pleading in a court of criminal jurisdiction
24 against any minor 16 years of age or older who is accused of
25 committing an offense enumerated in subdivision (b).

26 (2) Except as provided in subdivision (b) of Section 602, the
27 district attorney or other appropriate prosecuting officer may file
28 an accusatory pleading against a minor 14 years of age or older in
29 a court of criminal jurisdiction in any case in which any one or
30 more of the following circumstances apply:

31 (A) The minor is alleged to have committed an offense that if
32 committed by an adult would be punishable by death or
33 imprisonment in the state prison for life.

34 (B) The minor is alleged to have personally used a firearm
35 during the commission or attempted commission of a felony, as
36 described in Section 12022.5 or 12022.53 of the Penal Code.

37 (C) The minor is alleged to have committed an offense listed
38 in subdivision (b) in which any one or more of the following
39 circumstances apply:

1 (i) The minor has previously been found to be a person described
2 in Section 602 by reason of the commission of an offense listed
3 in subdivision (b).

4 (ii) The offense was committed for the benefit of, at the direction
5 of, or in association with any criminal street gang, as defined in
6 subdivision (f) of Section 186.22 of the Penal Code, with the
7 specific intent to promote, further, or assist in criminal conduct by
8 gang members.

9 (iii) The offense was committed for the purpose of intimidating
10 or interfering with any other person's free exercise or enjoyment
11 of a right secured to him or her by the Constitution or laws of this
12 state or by the Constitution or laws of the United States and because
13 of the other person's race, color, religion, ancestry, national origin,
14 disability, gender, or sexual orientation, or because the minor
15 perceives that the other person has one or more of those
16 characteristics, as described in Title 11.6 (commencing with
17 Section 422.55) of Part 1 of the Penal Code.

18 (iv) The victim of the offense was 65 years of age or older, or
19 blind, deaf, quadriplegic, paraplegic, developmentally disabled,
20 or confined to a wheelchair, and that disability was known or
21 reasonably should have been known to the minor at the time of
22 the commission of the offense.

23 (3) Except as provided in subdivision (b) of Section 602, the
24 district attorney or other appropriate prosecuting officer may file
25 an accusatory pleading in a court of criminal jurisdiction against
26 any minor 16 years of age or older who is accused of committing
27 one or more of the following offenses, if the minor has previously
28 been found to be a person described in Section 602 by reason of
29 the violation of a felony offense, when he or she was 14 years of
30 age or older:

31 (A) A felony offense in which it is alleged that the victim of the
32 offense was 65 years of age or older, or blind, deaf, quadriplegic,
33 paraplegic, developmentally disabled, or confined to a wheelchair,
34 and that disability was known or reasonably should have been
35 known to the minor at the time of the commission of the offense.

36 (B) A felony offense committed for the purposes of intimidating
37 or interfering with any other person's free exercise or enjoyment
38 of a right secured to him or her by the Constitution or laws of this
39 state or by the Constitution or laws of the United States and because
40 of the other person's race, color, religion, ancestry, national origin,

1 disability, gender, or sexual orientation, or because the minor
2 perceived that the other person had one or more of those
3 characteristics, as described in Title 11.6 (commencing with
4 Section 422.55) of Part 1 of the Penal Code.

5 (C) The offense was committed for the benefit of, at the direction
6 of, or in association with any criminal street gang as prohibited by
7 Section 186.22 of the Penal Code.

8 (4) In any case in which the district attorney or other appropriate
9 prosecuting officer has filed an accusatory pleading against a minor
10 in a court of criminal jurisdiction pursuant to this subdivision, the
11 case shall then proceed according to the laws applicable to a
12 criminal case. In conjunction with the preliminary hearing as
13 provided in Section 738 of the Penal Code, the magistrate shall
14 make a finding that reasonable cause exists to believe that the
15 minor comes within this subdivision. If reasonable cause is not
16 established, the criminal court shall transfer the case to the juvenile
17 court having jurisdiction over the matter.

18 (5) For an offense for which the prosecutor may file the
19 accusatory pleading in a court of criminal jurisdiction pursuant to
20 this subdivision, but elects instead to file a petition in the juvenile
21 court, if the minor is subsequently found to be a person described
22 in subdivision (a) of Section 602, the minor shall be committed to
23 placement in a juvenile hall, ranch camp, forestry camp, boot camp,
24 or secure juvenile home pursuant to Section 730, or in any
25 institution operated by the Department of Corrections and
26 Rehabilitation, Division of Juvenile Facilities.

27 (6) If, pursuant to this subdivision, the minor is found to be not
28 a fit and proper subject for juvenile court treatment and is tried in
29 a court of criminal jurisdiction and found guilty by the trier of fact,
30 the judge may commit the minor to the Department of Corrections
31 and Rehabilitation, Division of Juvenile Facilities, in lieu of
32 sentencing the minor to the state prison, unless the limitations
33 specified in Section 1732.6 apply.

34 (e) A report submitted by a probation officer pursuant to this
35 section regarding the behavioral patterns and social history of the
36 minor being considered for a determination of unfitness shall
37 include any written or oral statement offered by the victim, the
38 victim's parent or guardian if the victim is a minor, or if the victim
39 has died, the victim's next of kin, as authorized by subdivision (b)
40 of Section 656.2. Victims' statements shall be considered by the

1 court to the extent they are relevant to the court's determination
2 of unfitness.

3 ~~SEC. 238.~~

4 *SEC. 237.* Section 5348 of the Welfare and Institutions Code
5 is amended to read:

6 5348. (a) For purposes of subdivision (e) of Section 5346, a
7 county that chooses to provide assisted outpatient treatment
8 services pursuant to this article shall offer assisted outpatient
9 treatment services including, but not limited to, all of the following:

10 (1) Community-based, mobile, multidisciplinary, highly trained
11 mental health teams that use high staff-to-client ratios of no more
12 than 10 clients per team member for those subject to court-ordered
13 services pursuant to Section 5346.

14 (2) A service planning and delivery process that includes the
15 following:

16 (A) Determination of the numbers of persons to be served and
17 the programs and services that will be provided to meet their needs.
18 The local director of mental health shall consult with the sheriff,
19 the police chief, the probation officer, the mental health board,
20 contract agencies, and family, client, ethnic, and citizen
21 constituency groups as determined by the director.

22 (B) Plans for services, including outreach to families whose
23 severely mentally ill adult is living with them, design of mental
24 health services, coordination and access to medications, psychiatric
25 and psychological services, substance abuse services, supportive
26 housing or other housing assistance, vocational rehabilitation, and
27 veterans' services. Plans shall also contain evaluation strategies,
28 which shall consider cultural, linguistic, gender, age, and special
29 needs of minorities and those based on any characteristic listed or
30 defined in Section 11135 of the Government Code in the target
31 populations. Provision shall be made for staff with the cultural
32 background and linguistic skills necessary to remove barriers to
33 mental health services as a result of having
34 limited-English-speaking ability and cultural differences.
35 Recipients of outreach services may include families, the public,
36 primary care physicians, and others who are likely to come into
37 contact with individuals who may be suffering from an untreated
38 severe mental illness who would be likely to become homeless if
39 the illness continued to be untreated for a substantial period of

1 time. Outreach to adults may include adults voluntarily or
2 involuntarily hospitalized as a result of a severe mental illness.

3 (C) Provision for services to meet the needs of persons who are
4 physically disabled.

5 (D) Provision for services to meet the special needs of older
6 adults.

7 (E) Provision for family support and consultation services,
8 parenting support and consultation services, and peer support or
9 self-help group support, where appropriate.

10 (F) Provision for services to be client-directed and that employ
11 psychosocial rehabilitation and recovery principles.

12 (G) Provision for psychiatric and psychological services that
13 are integrated with other services and for psychiatric and
14 psychological collaboration in overall service planning.

15 (H) Provision for services specifically directed to seriously
16 mentally ill young adults 25 years of age or younger who are
17 homeless or at significant risk of becoming homeless. These
18 provisions may include continuation of services that still would
19 be received through other funds had eligibility not been terminated
20 as a result of age.

21 (I) Services reflecting special needs of women from diverse
22 cultural backgrounds, including supportive housing that accepts
23 children, personal services coordinator therapeutic treatment, and
24 substance treatment programs that address gender-specific trauma
25 and abuse in the lives of persons with mental illness, and vocational
26 rehabilitation programs that offer job training programs free of
27 gender bias and sensitive to the needs of women.

28 (J) Provision for housing for clients that is immediate,
29 transitional, permanent, or all of these.

30 (K) Provision for clients who have been suffering from an
31 untreated severe mental illness for less than one year, and who do
32 not require the full range of services, but are at risk of becoming
33 homeless unless a comprehensive individual and family support
34 services plan is implemented. These clients shall be served in a
35 manner that is designed to meet their needs.

36 (3) Each client shall have a clearly designated mental health
37 personal services coordinator who may be part of a
38 multidisciplinary treatment team who is responsible for providing
39 or assuring needed services. Responsibilities include complete
40 assessment of the client's needs, development of the client's

1 personal services plan, linkage with all appropriate community
2 services, monitoring of the quality and followthrough of services,
3 and necessary advocacy to ensure each client receives those
4 services that are agreed to in the personal services plan. Each client
5 shall participate in the development of his or her personal services
6 plan, and responsible staff shall consult with the designated
7 conservator, if one has been appointed, and, with the consent of
8 the client, shall consult with the family and other significant
9 persons as appropriate.

10 (4) The individual personal services plan shall ensure that
11 persons subject to assisted outpatient treatment programs receive
12 age-appropriate, gender-appropriate, and culturally appropriate
13 services, to the extent feasible, that are designed to enable
14 recipients to:

15 (A) Live in the most independent, least restrictive housing
16 feasible in the local community, and, for clients with children, to
17 live in a supportive housing environment that strives for
18 reunification with their children or assists clients in maintaining
19 custody of their children as is appropriate.

20 (B) Engage in the highest level of work or productive activity
21 appropriate to their abilities and experience.

22 (C) Create and maintain a support system consisting of friends,
23 family, and participation in community activities.

24 (D) Access an appropriate level of academic education or
25 vocational training.

26 (E) Obtain an adequate income.

27 (F) Self-manage their illnesses and exert as much control as
28 possible over both the day-to-day and long-term decisions that
29 affect their lives.

30 (G) Access necessary physical health care and maintain the best
31 possible physical health.

32 (H) Reduce or eliminate serious antisocial or criminal behavior,
33 and thereby reduce or eliminate their contact with the criminal
34 justice system.

35 (I) Reduce or eliminate the distress caused by the symptoms of
36 mental illness.

37 (J) Have freedom from dangerous addictive substances.

38 (5) The individual personal services plan shall describe the
39 service array that meets the requirements of paragraph (4), and to

1 the extent applicable to the individual, the requirements of
2 paragraph (2).

3 (b) A county that provides assisted outpatient treatment services
4 pursuant to this article also shall offer the same services on a
5 voluntary basis.

6 (c) Involuntary medication shall not be allowed absent a separate
7 order by the court pursuant to Sections 5332 to 5336, inclusive.

8 (d) A county that operates an assisted outpatient treatment
9 program pursuant to this article shall provide data to the State
10 Department of Mental Health and, based on the data, the
11 department shall report to the Legislature on or before May 1 of
12 each year in which the county provides services pursuant to this
13 article. The report shall include, at a minimum, an evaluation of
14 the effectiveness of the strategies employed by each program
15 operated pursuant to this article in reducing homelessness and
16 hospitalization of persons in the program and in reducing
17 involvement with local law enforcement by persons in the program.
18 The evaluation and report shall also include any other measures
19 identified by the department regarding persons in the program and
20 all of the following, based on information that is available:

21 (1) The number of persons served by the program and, of those,
22 the number who are able to maintain housing and the number who
23 maintain contact with the treatment system.

24 (2) The number of persons in the program with contacts with
25 local law enforcement, and the extent to which local and state
26 incarceration of persons in the program has been reduced or
27 avoided.

28 (3) The number of persons in the program participating in
29 employment services programs, including competitive employment.

30 (4) The days of hospitalization of persons in the program that
31 have been reduced or avoided.

32 (5) Adherence to prescribed treatment by persons in the program.

33 (6) Other indicators of successful engagement, if any, by persons
34 in the program.

35 (7) Victimization of persons in the program.

36 (8) Violent behavior of persons in the program.

37 (9) Substance abuse by persons in the program.

38 (10) Type, intensity, and frequency of treatment of persons in
39 the program.

1 (11) Extent to which enforcement mechanisms are used by the
2 program, when applicable.

3 (12) Social functioning of persons in the program.

4 (13) Skills in independent living of persons in the program.

5 (14) Satisfaction with program services both by those receiving
6 them and by their families, when relevant.

7 ~~SEC. 239.~~

8 *SEC. 238.* Section 5352.1 of the Welfare and Institutions Code
9 is amended to read:

10 5352.1. (a) The court may establish a temporary
11 conservatorship for a period not to exceed 30 days and appoint a
12 temporary conservator on the basis of the comprehensive report
13 of the officer providing conservatorship investigation filed pursuant
14 to Section 5354, or on the basis of an affidavit of the professional
15 person who recommended conservatorship stating the reasons for
16 his or her recommendation, if the court is satisfied that the
17 comprehensive report or affidavit shows the necessity for a
18 temporary conservatorship.

19 (b) Except as provided in this section, all temporary
20 conservatorships shall expire automatically at the conclusion of
21 30 days, unless prior to that date the court shall conduct a hearing
22 on the issue of whether or not the proposed conservatee is gravely
23 disabled as defined in subdivision (h) of Section 5008.

24 (c) If the proposed conservatee demands a court or jury trial on
25 the issue whether he or she is gravely disabled, the court may
26 extend the temporary conservatorship until the date of the
27 disposition of the issue by the court or jury trial, provided that the
28 extension shall in no event exceed a period of six months.

29 ~~SEC. 240.~~

30 *SEC. 239.* Section 5777.7 of the Welfare and Institutions Code
31 is amended to read:

32 5777.7. (a) In order to facilitate the receipt of medically
33 necessary specialty mental health services by a foster child who
34 is placed outside his or her county of original jurisdiction, the State
35 Department of Mental Health shall take all of the following actions:

36 (1) On or before July 1, 2008, create all of the following items,
37 in consultation with stakeholders, including, but not limited to,
38 the California Institute for Mental Health, the Child and Family
39 Policy Institute, the California Mental Health Directors

1 Association, and the California Alliance of Child and Family
2 Services:

3 (A) A standardized contract for the purchase of medically
4 necessary specialty mental health services from organizational
5 providers, when a contract is required.

6 (B) A standardized specialty mental health service authorization
7 procedure.

8 (C) A standardized set of documentation standards and forms,
9 including, but not limited to, forms for treatment plans, annual
10 treatment plan updates, day treatment intensive and day treatment
11 rehabilitative progress notes, and treatment authorization requests.

12 (2) On or before January 1, 2009, use the standardized items as
13 described in paragraph (1) to provide medically necessary specialty
14 mental health services to a foster child who is placed outside his
15 or her county of original jurisdiction, so that organizational
16 providers who are already certified by a mental health plan are not
17 required to be additionally certified by the mental health plan in
18 the county of original jurisdiction.

19 (3) (A) On or before January 1, 2009, use the standardized
20 items described in paragraph (1) to provide medically necessary
21 specialty mental health services to a foster child placed outside
22 his or her county of original jurisdiction to constitute a complete
23 contract, authorization procedure, and set of documentation
24 standards and forms, so that no additional documents are required.

25 (B) Authorize a county mental health plan to be exempt from
26 subparagraph (A) and have an addendum to a contract,
27 authorization procedure, or set of documentation standards and
28 forms, if the county mental health plan has an externally placed
29 requirement, such as a requirement from a federal integrity
30 agreement, that would affect one of these documents.

31 (4) Following consultation with stakeholders, including, but not
32 limited to, the California Institute for Mental Health, the Child and
33 Family Policy Institute, the California Mental Health Directors
34 Association, the California State Association of Counties, and the
35 California Alliance of Child and Family Services, require the use
36 of the standardized contracts, authorization procedures, and
37 documentation standards and forms as specified in paragraph (1)
38 in the 2008–09 state-county mental health plan contract and each
39 state-county mental health plan contract thereafter.

1 (5) The mental health plan shall complete a standardized
2 contract, as provided in paragraph (1), if a contract is required, or
3 another mechanism of payment if a contract is not required, with
4 a provider or providers of the county's choice, to deliver approved
5 specialty mental health services for a specified foster child, within
6 30 days of an approved treatment authorization request.

7 (b) The California Health and Human Services Agency shall
8 coordinate the efforts of the State Department of Mental Health
9 and the State Department of Social Services to do all of the
10 following:

11 (1) Participate with the stakeholders in the activities described
12 in this section.

13 (2) During budget hearings in 2008 and 2009, report to the
14 Legislature regarding the implementation of this section and
15 subdivision (c) of Section 5777.6.

16 (3) On or before July 1, 2008, establish the following, in
17 consultation with stakeholders, including, but not limited to, the
18 California Mental Health Directors Association, the California
19 Alliance of Child and Family Services, and the County Welfare
20 Directors Association of California:

21 (A) Informational materials that explain to foster care providers
22 how to arrange for mental health services on behalf of the
23 beneficiary in their care.

24 (B) Informational materials that county child welfare agencies
25 can access relevant to the provision of services to children in their
26 care from the out-of-county local mental health plan that is
27 responsible for providing those services, including, but not limited
28 to, receiving a copy of the child's treatment plan within 60 days
29 after requesting services.

30 (C) It is the intent of the Legislature to ensure that foster children
31 who are adopted or placed permanently with relative guardians,
32 and who move to a county outside their original county of
33 residence, can access mental health services in a timely manner.
34 It is the intent of the Legislature to enact this section as a temporary
35 means of ensuring access to these services, while the appropriate
36 stakeholders pursue a long-term solution in the form of a change
37 to the Medi-Cal Eligibility Data System that will allow these
38 children to receive mental health services through their new county
39 of residence.

1 ~~SEC. 241.~~

2 *SEC. 240.* Section 5806 of the Welfare and Institutions Code
3 is amended to read:

4 5806. The State Department of Mental Health shall establish
5 service standards that ensure that members of the target population
6 are identified, and services provided to assist them to live
7 independently, work, and reach their potential as productive
8 citizens. The department shall provide annual oversight of grants
9 issued pursuant to this part for compliance with these standards.
10 These standards shall include, but are not limited to, all of the
11 following:

12 (a) A service planning and delivery process that is target
13 population based and includes the following:

14 (1) Determination of the numbers of clients to be served and
15 the programs and services that will be provided to meet their needs.
16 The local director of mental health shall consult with the sheriff,
17 the police chief, the probation officer, the mental health board,
18 contract agencies, and family, client, ethnic, and citizen
19 constituency groups as determined by the director.

20 (2) Plans for services, including outreach to families whose
21 severely mentally ill adult is living with them, design of mental
22 health services, coordination and access to medications, psychiatric
23 and psychological services, substance abuse services, supportive
24 housing or other housing assistance, vocational rehabilitation, and
25 veterans' services. Plans also shall contain evaluation strategies,
26 that shall consider cultural, linguistic, gender, age, and special
27 needs of minorities in the target populations. Provision shall be
28 made for staff with the cultural background and linguistic skills
29 necessary to remove barriers to mental health services due to
30 limited-English-speaking ability and cultural differences.
31 Recipients of outreach services may include families, the public,
32 primary care physicians, and others who are likely to come into
33 contact with individuals who may be suffering from an untreated
34 severe mental illness who would be likely to become homeless if
35 the illness continued to be untreated for a substantial period of
36 time. Outreach to adults may include adults voluntarily or
37 involuntarily hospitalized as a result of a severe mental illness.

38 (3) Provision for services to meet the needs of target population
39 clients who are physically disabled.

1 (4) Provision for services to meet the special needs of older
2 adults.

3 (5) Provision for family support and consultation services,
4 parenting support and consultation services, and peer support or
5 self-help group support, where appropriate for the individual.

6 (6) Provision for services to be client-directed and that employ
7 psychosocial rehabilitation and recovery principles.

8 (7) Provision for psychiatric and psychological services that are
9 integrated with other services and for psychiatric and psychological
10 collaboration in overall service planning.

11 (8) Provision for services specifically directed to seriously
12 mentally ill young adults 25 years of age or younger who are
13 homeless or at significant risk of becoming homeless. These
14 provisions may include continuation of services that still would
15 be received through other funds had eligibility not been terminated
16 due to age.

17 (9) Services reflecting special needs of women from diverse
18 cultural backgrounds, including supportive housing that accepts
19 children, personal services coordinator therapeutic treatment, and
20 substance treatment programs that address gender-specific trauma
21 and abuse in the lives of persons with mental illness, and vocational
22 rehabilitation programs that offer job training programs free of
23 gender bias and sensitive to the needs of women.

24 (10) Provision for housing for clients that is immediate,
25 transitional, permanent, or all of these.

26 (11) Provision for clients who have been suffering from an
27 untreated severe mental illness for less than one year, and who do
28 not require the full range of services, but are at risk of becoming
29 homeless unless a comprehensive individual and family support
30 services plan is implemented. These clients shall be served in a
31 manner that is designed to meet their needs.

32 (b) Each client shall have a clearly designated mental health
33 personal services coordinator who may be part of a
34 multidisciplinary treatment team who is responsible for providing
35 or assuring needed services. Responsibilities include complete
36 assessment of the client's needs, development of the client's
37 personal services plan, linkage with all appropriate community
38 services, monitoring of the quality and followthrough of services,
39 and necessary advocacy to ensure that each client receives those
40 services that are agreed to in the personal services plan. Each client

1 shall participate in the development of his or her personal services
2 plan, and responsible staff shall consult with the designated
3 conservator, if one has been appointed, and, with the consent of
4 the client, consult with the family and other significant persons as
5 appropriate.

6 (c) The individual personal services plan shall ensure that
7 members of the target population involved in the system of care
8 receive age-appropriate, gender-appropriate, and culturally
9 appropriate services or appropriate services based on any
10 characteristic listed or defined in Section 11135 of the Government
11 Code, to the extent feasible, that are designed to enable recipients
12 to:

13 (1) Live in the most independent, least restrictive housing
14 feasible in the local community, and for clients with children, to
15 live in a supportive housing environment that strives for
16 reunification with their children or assists clients in maintaining
17 custody of their children as is appropriate.

18 (2) Engage in the highest level of work or productive activity
19 appropriate to their abilities and experience.

20 (3) Create and maintain a support system consisting of friends,
21 family, and participation in community activities.

22 (4) Access an appropriate level of academic education or
23 vocational training.

24 (5) Obtain an adequate income.

25 (6) Self-manage their illness and exert as much control as
26 possible over both the day-to-day and long-term decisions that
27 affect their lives.

28 (7) Access necessary physical health care and maintain the best
29 possible physical health.

30 (8) Reduce or eliminate serious antisocial or criminal behavior
31 and thereby reduce or eliminate their contact with the criminal
32 justice system.

33 (9) Reduce or eliminate the distress caused by the symptoms of
34 mental illness.

35 (10) Have freedom from dangerous addictive substances.

36 (d) The individual personal services plan shall describe the
37 service array that meets the requirements of subdivision (c), and
38 to the extent applicable to the individual, the requirements of
39 subdivision (a).

1 ~~SEC. 242.~~

2 ~~SEC. 241.~~ Section 10830 of the Welfare and Institutions Code,
3 as added by Chapter 206 of the Statutes of 1996, is amended to
4 read:

5 10830. (a) The department and the Health and Welfare Data
6 Center shall design, implement, and maintain a statewide
7 fingerprint imaging system for use in connection with the
8 determination of eligibility for benefits under the California Work
9 Opportunity and Responsibility to Kids Act (CalWORKs) *program*
10 under Chapter 2 (commencing with Section 11200) of Part 3
11 excluding Aid to Families with Dependent Children-Foster Care
12 (AFDC-FC), and the Food Stamp Program under Chapter 10
13 (commencing with Section 18900) of Part 6.

14 (b) (1) Every applicant for, or recipient of, aid under Chapter
15 2 (commencing with Section 11200) of Part 3, excluding the
16 AFDC-FC program and Chapter 10 (commencing with Section
17 18900) of Part 6, other than dependent children or persons who
18 are physically unable to be fingerprint imaged, shall, as a condition
19 of eligibility for assistance, be required to be fingerprint imaged.

20 (2) A person subject to paragraph (1) shall not be eligible for
21 the CalWORKs program or the Food Stamp Program until
22 fingerprint images are provided, except as provided in subdivision
23 (e). Ineligibility may extend to an entire case of a person who
24 refuses to provide fingerprint images.

25 (c) The department may adopt emergency regulations to
26 implement this section specifying the statewide fingerprint imaging
27 requirements and exemptions to the requirements in accordance
28 with the Administrative Procedure Act (Chapter 3.5 (commencing
29 with Section 11340) of Part 1 of Division 3 of Title 2 of the
30 Government Code). The initial adoption of any emergency
31 regulations implementing this section, as added during the 1996
32 portion of the 1995–96 Regular Session, shall be deemed to be an
33 emergency and necessary for the immediate preservation of the
34 public peace, health and safety, or general welfare. Emergency
35 regulations adopted pursuant to this subdivision shall remain in
36 effect for no more than 180 days.

37 (d) Persons required to be fingerprint imaged pursuant to this
38 section shall be informed that fingerprint images obtained pursuant
39 to this section shall be used only for the purpose of verifying
40 eligibility and preventing multiple enrollments in the CalWORKs

1 program or the Food Stamp Program. The department, county
2 welfare agencies, and all others shall not use or disclose the data
3 collected and maintained for any purpose other than the prevention
4 or prosecution of fraud. Fingerprint imaging information obtained
5 pursuant to this section shall be confidential under Section 10850.

6 (e) (1) Except as provided in paragraph (2), the fingerprint
7 imaging required under this chapter shall be scheduled only during
8 the application appointment or other regularly scheduled
9 appointments. No other special appointment shall be required. No
10 otherwise eligible individual shall be ineligible to receive benefits
11 under this chapter due to a technical problem occurring in the
12 fingerprint imaging system or as long as the person consents to
13 and is available for fingerprint imaging at a mutually agreed-upon
14 time, not later than 60 days from the initial attempt to complete
15 fingerprint imaging.

16 (2) During the first nine months following implementation,
17 recipients may be scheduled for separate appointments to complete
18 the fingerprint imaging required by this section. Notice shall be
19 mailed first class by the department to recipients at least 10 days
20 prior to the appointment, and shall include procedures for the
21 recipient to reschedule the scheduled appointment within 30 days.

22 (f) If the fingerprint image of an applicant or recipient of aid to
23 which this section applies matches another fingerprint image on
24 file, the county shall notify the applicant or recipient. In the event
25 that a match is appealed, the fingerprint image match shall be
26 verified by a trained individual and any matching case files
27 reviewed prior to the denial of benefits. Upon confirmation that
28 the applicant or recipient is receiving or attempting to receive
29 multiple CalWORKs program checks, a county fraud investigator
30 shall be notified.

31 ~~SEC. 243.~~

32 *SEC. 242.* Section 10960 of the Welfare and Institutions Code
33 is amended to read:

34 10960. (a) Within 30 days after receiving the decision of the
35 director, which is the proposed decision of an administrative law
36 judge adopted by the director as final, a final decision rendered by
37 an administrative law judge, or a decision issued by the director
38 himself or herself, the affected county or applicant or recipient
39 may file a request with the director for a rehearing. The director
40 shall immediately serve a copy of the request on the other party

1 to the hearing and that other party may within five days of the
2 service file with the director a written statement supporting or
3 objecting to the request. The director shall grant or deny the request
4 no later than the 35th working day after the request is made to
5 ensure the prompt and efficient administration of the hearing
6 process. If the director grants the request, the rehearing shall be
7 conducted in the same manner and subject to the same time limits
8 as the original hearing.

9 (b) The grounds for requesting a rehearing are as follows:

10 (1) The adopted decision is inconsistent with the law.

11 (2) The adopted decision is not supported by the evidence in
12 the record.

13 (3) The adopted decision is not supported by the findings.

14 (4) The adopted decision does not address all of the claims or
15 issues raised by the parties.

16 (5) The adopted decision does not address all of the claims or
17 issues supported by the record or evidence.

18 (6) The adopted decision does not set forth sufficient information
19 to determine the basis for its legal conclusion.

20 (7) Newly discovered evidence, that was not in custody or
21 available to the party requesting rehearing at the time of the
22 hearing, is now available and the new evidence, had it been
23 introduced, could have changed the hearing decision.

24 (8) For any other reason necessary to prevent the abuse of
25 discretion or an error of law, or for any other reason consistent
26 with Section 1094.5 of the Code of Civil Procedure.

27 (c) The notice granting or denying the rehearing request shall
28 explain the reasons and legal basis for granting or denying the
29 request for rehearing.

30 (d) The decision of the director, which is the proposed decision
31 of an administrative law judge adopted by the director as final, a
32 final decision rendered by an administrative law judge, or a
33 decision issued by the director himself or herself, remains final
34 pending a request for a rehearing. Only after a rehearing is granted
35 is the decision no longer the final decision in the case.

36 (e) Notwithstanding any other provision of law, a rehearing
37 request or decision shall not be a prerequisite to filing an action
38 under Section 10962.

39 (f) (1) Notwithstanding subdivision (a), an applicant or recipient
40 otherwise may be entitled to a rehearing pursuant to this chapter

1 if he or she files a request more than 30 days after the decision of
2 the director is issued, or if he or she did not receive a copy of the
3 decision of the director, or if there is good cause for filing beyond
4 the 30-day period. The director may determine whether good cause
5 exists.

6 (2) For purposes of this subdivision, “good cause” means a
7 substantial and compelling reason beyond the party’s control,
8 considering the length of the delay, the diligence of the party
9 making the request, and the potential prejudice to the other party.
10 The inability of a person to understand an adequate and
11 language-compliant notice, in and of itself, shall not constitute
12 good cause. The department shall not grant a request for a hearing
13 if the request is filed more than 180 days after the order or action
14 complained of.

15 (3) This section shall not preclude the application of the
16 principles of equity jurisdiction as otherwise provided by law.

17 (g) Notwithstanding the Administrative Procedure Act (Chapter
18 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
19 Title 2 of the Government Code), the department shall implement
20 this section through an all-county information notice no later than
21 January 1, 2008. The department may also provide further
22 instructions through training notes.

23 ~~SEC. 244.~~

24 *SEC. 243.* Section 11322.5 of the Welfare and Institutions
25 Code is amended to read:

26 11322.5. (a) It is the intent of the Legislature to do each of the
27 following:

28 (1) Maximize the ability of CalWORKs recipients to benefit
29 from the federal Earned Income Tax Credit (EITC), including
30 retroactive EITC credits and the Advance EITC, take advantage
31 of the earned-income disregard to increase their federal Food Stamp
32 Program benefits, and accumulate credit toward future social
33 security income.

34 (2) Educate and empower all CalWORKs participants who
35 receive the federal EITC to save or invest part or all of their credits
36 in instruments such as individual development accounts, 401(k)
37 plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans,
38 restricted accounts pursuant to subdivision (a) of Section 11155.2,
39 or 529 plans, and to take advantage of the federal Assets for
40 Independence program and other matching funds, tools, and

1 training available from public or private sources, in order to build
2 their assets.

3 (b) It is the intent of the Legislature that counties encourage
4 CalWORKs recipients to participate in activities that will maximize
5 their receipt of the EITC. To this end, counties may do all of the
6 following:

7 (1) Structure welfare-to-work activities pursuant to subdivisions
8 (a) to (j), inclusive, of Section 11322.6 to give recipients the option
9 of maximizing the portion of their CalWORKs benefits that meets
10 the definition of “earned income” in Section 32(c)(2) of the Internal
11 Revenue Code.

12 (2) Inform CalWORKs recipients of each of the following:

13 (A) That earned income, either previous or future, may make
14 them eligible for the federal EITC, including retroactive EITC
15 credits and the Advance EITC, increase their federal Food Stamp
16 Program benefits, and accumulate credit toward future social
17 security income.

18 (B) That recipients, as part of their welfare-to-work plans, have
19 the option of engaging in subsidized employment and grant-based
20 on-the-job training, as specified in Section 11322.6, and that
21 participating in these activities will increase their earned income
22 to the extent that they meet the requirements of federal law.

23 (C) That receipt of the federal EITC does not affect their
24 CalWORKs grant and is additional tax-free income for them.

25 (D) That a CalWORKs recipient who receives the federal EITC
26 may invest these funds in an individual development account,
27 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan,
28 Coverdell ESA, or restricted account, and that investments in these
29 accounts will not make the recipient ineligible for CalWORKs
30 benefits or reduce the recipient’s CalWORKs benefits.

31 (3) At each regular eligibility redetermination, the county shall
32 ask a recipient whether the recipient is eligible for and takes
33 advantage of the EITC. If the recipient may be eligible and does
34 not participate, the county shall give the recipient the federal EITC
35 form and encourage and assist the recipient to take advantage of
36 it.

37 (c) (1) No later than December 1, 2008, the State Department
38 of Social Services shall develop guidelines that counties may adopt
39 to carry out the intent of this section and shall present options to

1 the Governor and Legislature for any legislation necessary to
2 further carry out the intent of this section.

3 (2) In developing the guidelines and legislative options, the
4 department shall consult and convene at least one meeting of
5 subject-matter experts, including representatives from the
6 Assembly and Senate Committees on Human Services, Assets for
7 All Alliance, Asset Policy Initiative of California, California
8 Budget Project, California Catholic Conference, California Council
9 of Churches, California Family Resource Association, California
10 State Association of Counties, CFED, County Welfare Directors
11 Association of California, Federal Reserve Bank of San Francisco,
12 Legislative Analyst’s Office, Lifetime, National Council of
13 Churches, Insight Center for Community Economic Development,
14 New America Foundation, Public Policy Institute of California,
15 University of California at Los Angeles School of Law, United
16 States Internal Revenue Service, and Western Center on Law and
17 Poverty. Nothing in this section requires the department to
18 compensate or pay expenses for any person it consults or invites
19 to the meeting or meetings.

20 ~~SEC. 245.~~

21 *SEC. 244.* Section 14043.1 of the Welfare and Institutions
22 Code is amended to read:

23 14043.1. As used in this article:

24 (a) “Abuse” means either of the following:

25 (1) Practices that are inconsistent with sound fiscal or business
26 practices and result in unnecessary cost to the federal Medicaid
27 and Medicare programs, the Medi-Cal program, another state’s
28 Medicaid program, or other health care programs operated, or
29 financed in whole or in part, by the federal government or a state
30 or local agency in this state or another state.

31 (2) Practices that are inconsistent with sound medical practices
32 and result in reimbursement by the federal Medicaid and Medicare
33 programs, the Medi-Cal program or other health care programs
34 operated, or financed in whole or in part, by the federal government
35 or a state or local agency in this state or another state, for services
36 that are unnecessary or for substandard items or services that fail
37 to meet professionally recognized standards for health care.

38 (b) “Applicant” means an individual, partnership, group,
39 association, corporation, institution, or entity, and the officers,
40 directors, owners, managing employees, or agents thereof, that

1 applies *apply* to the department for enrollment as a provider in the
2 Medi-Cal program.

3 (c) “Application or application package” means a completed
4 and signed application form, signed under penalty of perjury or
5 notarized pursuant to Section 14043.25, a disclosure statement, a
6 provider agreement, and all attachments or changes in the form,
7 statement, or agreement.

8 (d) “Appropriate volume of business” means a volume that is
9 consistent with the information provided in the application and
10 any supplemental information provided by the applicant or
11 provider, and is of a quality and type that would reasonably be
12 expected based upon the size and type of business operated by the
13 applicant or provider.

14 (e) “Business address” means the location where an applicant
15 or provider provides services, goods, supplies, or merchandise,
16 directly or indirectly, to a Medi-Cal beneficiary. A post office box
17 or commercial box is not a business address. The business address
18 for the location of a vehicle or vessel owned and operated by an
19 applicant or provider enrolled in the Medi-Cal program and used
20 to provide services, goods, supplies, or merchandise, directly or
21 indirectly, to a Medi-Cal beneficiary shall either be the business
22 address location listed on the provider’s application as the location
23 where similar services, goods, supplies, or merchandise would be
24 provided or the applicant’s or provider’s pay to address.

25 (f) “Convicted” means any of the following:

26 (1) A judgment of conviction has been entered against an
27 individual or entity by a federal, state, or local court, regardless
28 of whether there is a posttrial motion, an appeal pending, or the
29 judgment of conviction or other record relating to the criminal
30 conduct has been expunged or otherwise removed.

31 (2) A federal, state, or local court has made a finding of guilt
32 against an individual or entity.

33 (3) A federal, state, or local court has accepted a plea of guilty
34 or nolo contendere by an individual or entity.

35 (4) An individual or entity has entered into participation in a
36 first offender, deferred adjudication, or other program or
37 arrangement where judgment of conviction has been withheld.

38 (g) “Debt due and owing” means 60 days have passed since a
39 notice or demand for repayment of an overpayment or another
40 amount resulting from an audit or examination, for a penalty

1 assessment, or for another amount due the department was sent to
2 the provider, regardless of whether the provider is an institutional
3 provider or a noninstitutional provider and regardless of whether
4 an appeal is pending.

5 (h) “Enrolled or enrollment in the Medi-Cal program” means
6 authorized under any processes by the department or its agents or
7 contractors to receive, directly or indirectly, reimbursement for
8 the provision of services, goods, supplies, or merchandise to a
9 Medi-Cal beneficiary.

10 (i) “Fraud” means an intentional deception or misrepresentation
11 made by a person with the knowledge that the deception could
12 result in some unauthorized benefit to himself or herself or some
13 other person. It includes any act that constitutes fraud under
14 applicable federal or state law.

15 (j) “Location” means a street, city, or rural route address or a
16 site or place within a street, city, or rural route address, and the
17 city, county, state, and nine-digit ZIP Code.

18 (k) “Not currently enrolled at the location for which the
19 application is submitted” means either of the following:

20 (1) The provider is changing location and moving to a different
21 location than that for which the provider was issued a provider
22 number.

23 (2) The provider is adding a business address.

24 (l) “Individual physician practice” means a physician and
25 surgeon licensed by the Medical Board of California or the
26 Osteopathic Medical Board of California enrolled or enrolling in
27 Medi-Cal as an individual provider who is sole proprietor of his
28 or her practice or is a corporation owned solely by the individual
29 physician and the only physician practitioner is the owner. An
30 individual physician practice may include nonphysician medical
31 practitioners employed and supervised by the physician.

32 (m) “Preenrollment period” or “preenrollment” includes the
33 period of time during which an application package for enrollment,
34 continued enrollment, or for the addition of or change in a location
35 is pending.

36 (n) “Professionally recognized standards of health care” means
37 statewide or national standards of care, whether in writing or not,
38 that professional peers of the individual or entity whose provision
39 of care is an issue recognize as applying to those peers practicing
40 or providing care within a state. When the United States

1 Department of Health and Human Services has declared a treatment
2 modality not to be safe and effective, practitioners that employ
3 that treatment modality shall be deemed not to meet professionally
4 recognized standards of health care. This subdivision shall not be
5 construed to mean that all other treatments meet professionally
6 recognized standards of care.

7 (o) “Provider” means an individual, partnership, group,
8 association, corporation, institution, or entity, and the officers,
9 directors, owners, managing employees, or agents of a partnership,
10 group association, corporation, institution, or entity, that provides
11 services, goods, supplies, or merchandise, directly or indirectly,
12 to a Medi-Cal beneficiary and that has been enrolled in the
13 Medi-Cal program.

14 (p) “Unnecessary or substandard items or services” means those
15 that are either of the following:

16 (1) Substantially in excess of the provider’s usual charges or
17 costs for the items or services.

18 (2) Furnished, or caused to be furnished, to patients, whether
19 or not covered by Medicare, Medicaid, or any of the state health
20 care programs to which the definitions of applicant and provider
21 apply, and which are substantially in excess of the patient’s needs,
22 or of a quality that fails to meet professionally recognized standards
23 of health care. The department’s determination that the items or
24 services furnished were excessive or of unacceptable quality shall
25 be made on the basis of information, including sanction reports,
26 from the following sources:

27 (A) The professional review organization for the area served
28 by the individual or entity.

29 (B) State or local licensing or certification authorities.

30 (C) Fiscal agents or contractors or private insurance companies.

31 (D) State or local professional societies.

32 (E) Any other sources deemed appropriate by the department.

33 ~~SEC. 246.~~

34 *SEC. 245.* Section 14043.26 of the Welfare and Institutions
35 Code is amended to read:

36 14043.26. (a) (1) On and after January 1, 2004, an applicant
37 that currently is not enrolled in the Medi-Cal program, or a provider
38 applying for continued enrollment, upon written notification from
39 the department that enrollment for continued participation of all
40 providers in a specific provider of service category or subgroup

1 of that category to which the provider belongs will occur, or, except
2 as provided in subdivisions (b) and (e), a provider not currently
3 enrolled at a location where the provider intends to provide
4 services, goods, supplies, or merchandise to a Medi-Cal
5 beneficiary, shall submit a complete application package for
6 enrollment, continuing enrollment, or enrollment at a new location
7 or a change in location.

8 (2) Clinics licensed by the department pursuant to Chapter 1
9 (commencing with Section 1200) of Division 2 of the Health and
10 Safety Code and certified by the department to participate in the
11 Medi-Cal program shall not be subject to this section.

12 (3) Health facilities licensed by the department pursuant to
13 Chapter 2 (commencing with Section 1250) of Division 2 of the
14 Health and Safety Code and certified by the department to
15 participate in the Medi-Cal program shall not be subject to this
16 section.

17 (4) Adult day health care providers licensed pursuant to Chapter
18 3.3 (commencing with Section 1570) of Division 2 of the Health
19 and Safety Code and certified by the department to participate in
20 the Medi-Cal program shall not be subject to this section.

21 (5) Home health agencies licensed pursuant to Chapter 8
22 (commencing with Section 1725) of Division 2 of the Health and
23 Safety Code and certified by the department to participate in the
24 Medi-Cal program shall not be subject to this section.

25 (6) Hospices licensed pursuant to Chapter 8.5 (commencing
26 with Section 1745) of Division 2 of the Health and Safety Code
27 and certified by the department to participate in the Medi-Cal
28 program shall not be subject to this section.

29 (b) A physician and surgeon licensed by the Medical Board of
30 California or the Osteopathic Medical Board of California
31 practicing in an individual physician practice, who is enrolled and
32 in good standing in the Medi-Cal program, and who is changing
33 locations of that individual physician practice within the same
34 county, shall be eligible to continue enrollment at the new location
35 by filing a change of location form to be developed by the
36 department. The form shall comply with all minimum federal
37 requirements related to Medicaid provider enrollment. Filing this
38 form shall be in lieu of submitting a complete application package
39 pursuant to subdivision (a).

1 (c) (1) Except as provided in paragraph (2), within 30 days
2 after receiving an application package submitted pursuant to
3 subdivision (a), the department shall provide written notice that
4 the application package has been received and, if applicable, that
5 there is a moratorium on the enrollment of providers in the specific
6 provider of service category or subgroup of the category to which
7 the applicant or provider belongs. This moratorium shall bar further
8 processing of the application package.

9 (2) Within 15 days after receiving an application package from
10 a physician, or a group of physicians, licensed by the Medical
11 Board of California or the Osteopathic Medical Board of California,
12 or a change of location form pursuant to subdivision (b), the
13 department shall provide written notice that the application package
14 or the change of location form has been received.

15 (d) (1) If the application package submitted pursuant to
16 subdivision (a) is from an applicant or provider who meets the
17 criteria listed in paragraph (2), the applicant or provider shall be
18 considered a preferred provider and shall be granted preferred
19 provisional provider status pursuant to this section and for a period
20 of no longer than 18 months, effective from the date on the notice
21 from the department. The ability to request consideration as a
22 preferred provider and the criteria necessary for the consideration
23 shall be publicized to all applicants and providers. An applicant
24 or provider who desires consideration as a preferred provider
25 pursuant to this subdivision shall request consideration from the
26 department by making a notation to that effect on the application
27 package, by cover letter, or by other means identified by the
28 department in a provider bulletin. Request for consideration as a
29 preferred provider shall be made with each application package
30 submitted in order for the department to grant the consideration.
31 An applicant or provider who requests consideration as a preferred
32 provider shall be notified within 60 days whether the applicant or
33 provider meets or does not meet the criteria listed in paragraph
34 (2). If an applicant or provider is notified that the applicant or
35 provider does not meet the criteria for a preferred provider, the
36 application package submitted shall be processed in accordance
37 with the remainder of this section.

38 (2) To be considered a preferred provider, the applicant or
39 provider shall meet all of the following criteria:

1 (A) Hold a current license as a physician and surgeon issued by
2 the Medical Board of California or the Osteopathic Medical Board
3 of California, which license shall not have been revoked, whether
4 stayed or not, suspended, placed on probation, or subject to other
5 limitation.

6 (B) Be a current faculty member of a teaching hospital or a
7 children’s hospital, as defined in Section 10727, accredited by the
8 Joint Commission or the American Osteopathic Association, or
9 be credentialed by a health care service plan that is licensed under
10 the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
11 2.2 (commencing with Section 1340) of Division 2 of the Health
12 and Safety Code) or county organized health system, or be a current
13 member in good standing of a group that is credentialed by a health
14 care service plan that is licensed under the Knox-Keene Act.

15 (C) Have full, current, unrevoked, and unsuspended privileges
16 at a Joint Commission or American Osteopathic Association
17 accredited general acute care hospital.

18 (D) Not have any adverse entries in the federal Healthcare
19 Integrity and Protection Data Bank.

20 (3) The department may recognize other providers as qualifying
21 as preferred providers if criteria similar to those set forth in
22 paragraph (2) are identified for the other providers. The department
23 shall consult with interested parties and appropriate stakeholders
24 to identify similar criteria for other providers so that they may be
25 considered as preferred providers.

26 (e) (1) If a Medi-Cal applicant meets the criteria listed in
27 paragraph (2), the applicant shall be enrolled in the Medi-Cal
28 program after submission and review of a short form application
29 to be developed by the department. The form shall comply with
30 all minimum federal requirements related to Medicaid provider
31 enrollment. The department shall notify the applicant that the
32 department has received the application within 15 days of receipt
33 of the application. The department shall issue the applicant a
34 provider number or notify the applicant that the applicant does not
35 meet the criteria listed in paragraph (2) within 90 days of receipt
36 of the application.

37 (2) Notwithstanding any other provision of law, an applicant or
38 provider who meets all of the following criteria shall be eligible
39 for enrollment in the Medi-Cal program pursuant to this

1 subdivision, after submission and review of a short form
2 application:

3 (A) The applicant's or provider's practice is based in one or
4 more of the following: a general acute care hospital, a rural general
5 acute care hospital, or an acute psychiatric hospital, as defined in
6 subdivisions (a) and (b) of Section 1250 of the Health and Safety
7 Code.

8 (B) The applicant or provider holds a current, unrevoked, or
9 unsuspended license as a physician and surgeon issued by the
10 Medical Board of California or the Osteopathic Medical Board of
11 California. An applicant or provider shall not be in compliance
12 with this subparagraph if a license revocation has been stayed, the
13 licensee has been placed on probation, or the license is subject to
14 any other limitation.

15 (C) The applicant or provider does not have an adverse entry
16 in the federal Healthcare Integrity and Protection Data Bank.

17 (3) An applicant shall be granted provisional provider status
18 under this subdivision for a period of 12 months.

19 (f) Except as provided in subdivision (g), within 180 days after
20 receiving an application package submitted pursuant to subdivision
21 (a), or from the date of the notice to an applicant or provider that
22 the applicant or provider does not qualify as a preferred provider
23 under subdivision (d), the department shall give written notice to
24 the applicant or provider that any of the following applies, or shall
25 on the 181st day grant the applicant or provider provisional
26 provider status pursuant to this section for a period no longer than
27 12 months, effective from the 181st day:

28 (1) The applicant or provider is being granted provisional
29 provider status for a period of 12 months, effective from the date
30 on the notice.

31 (2) The application package is incomplete. The notice shall
32 identify additional information or documentation that is needed to
33 complete the application package.

34 (3) The department is exercising its authority under Section
35 14043.37, 14043.4, or 14043.7, and is conducting background
36 checks, preenrollment inspections, or unannounced visits.

37 (4) The application package is denied for any of the following
38 reasons:

39 (A) Pursuant to Section 14043.2 or 14043.36.

1 (B) For lack of a license necessary to perform the health care
2 services or to provide the goods, supplies, or merchandise directly
3 or indirectly to a Medi-Cal beneficiary, within the applicable
4 provider of service category or subgroup of that category.

5 (C) The period of time during which an applicant or provider
6 has been barred from reapplying has not passed.

7 (D) For other stated reasons authorized by law.

8 (g) Notwithstanding subdivision (f), within 90 days after
9 receiving an application package submitted pursuant to subdivision
10 (a) from a physician or physician group licensed by the Medical
11 Board of California or the Osteopathic Medical Board of California,
12 or from the date of the notice to that physician or physician group
13 that does not qualify as a preferred provider under subdivision (d),
14 or within 90 days after receiving a change of location form
15 submitted pursuant to subdivision (b), the department shall give
16 written notice to the applicant or provider that either paragraph
17 (1), (2), (3), or (4) of subdivision (f) applies, or shall on the 91st
18 day grant the applicant or provider provisional provider status
19 pursuant to this section for a period no longer than 12 months,
20 effective from the 91st day.

21 (h) (1) If the application package that was noticed as incomplete
22 under paragraph (2) of subdivision (f) is resubmitted with all
23 requested information and documentation, and received by the
24 department within 60 days of the date on the notice, the department
25 shall, within 60 days of the resubmission, send a notice that any
26 of the following applies:

27 (A) The applicant or provider is being granted provisional
28 provider status for a period of 12 months, effective from the date
29 on the notice.

30 (B) The application package is denied for any other reasons
31 provided for in paragraph (4) of subdivision (f).

32 (C) The department is exercising its authority under Section
33 14043.37, 14043.4, or 14043.7 to conduct background checks,
34 preenrollment inspections, or unannounced visits.

35 (2) (A) If the application package that was noticed as
36 incomplete under paragraph (2) of subdivision (f) is not resubmitted
37 with all requested information and documentation and received
38 by the department within 60 days of the date on the notice, the
39 application package shall be denied by operation of law. The

1 applicant or provider may reapply by submitting a new application
2 package that shall be reviewed de novo.

3 (B) If the failure to resubmit is by a provider applying for
4 continued enrollment, the failure shall make the provider also
5 subject to deactivation of the provider's number and all of the
6 business addresses used by the provider to provide services, goods,
7 supplies, or merchandise to Medi-Cal beneficiaries.

8 (C) Notwithstanding subparagraph (A), if the notice of an
9 incomplete application package included a request for information
10 or documentation related to grounds for denial under Section
11 14043.2 or 14043.36, the applicant or provider shall not reapply
12 for enrollment or continued enrollment in the Medi-Cal program
13 or for participation in any health care program administered by
14 the department or its agents or contractors for a period of three
15 years.

16 (i) (1) If the department exercises its authority under Section
17 14043.37, 14043.4, or 14043.7 to conduct background checks,
18 preenrollment inspections, or unannounced visits, the applicant or
19 provider shall receive notice, from the department, after the
20 conclusion of the background check, preenrollment inspection, or
21 unannounced visit of either of the following:

22 (A) The applicant or provider is granted provisional provider
23 status for a period of 12 months, effective from the date on the
24 notice.

25 (B) Discrepancies or failure to meet program requirements, as
26 prescribed by the department, have been found to exist during the
27 preenrollment period.

28 (2) (A) The notice shall identify the discrepancies or failures,
29 and whether remediation can be made or not, and if so, the time
30 period within which remediation must be accomplished. Failure
31 to remediate discrepancies and failures as prescribed by the
32 department, or notification that remediation is not available, shall
33 result in denial of the application by operation of law. The applicant
34 or provider may reapply by submitting a new application package
35 that shall be reviewed de novo.

36 (B) If the failure to remediate is by a provider applying for
37 continued enrollment, the failure shall make the provider also
38 subject to deactivation of the provider's number and all of the
39 business addresses used by the provider to provide services, goods,
40 supplies, or merchandise to Medi-Cal beneficiaries.

1 (C) Notwithstanding subparagraph (A), if the discrepancies or
2 failure to meet program requirements, as prescribed by the director,
3 included in the notice were related to grounds for denial under
4 Section 14043.2 or 14043.36, the applicant or provider shall not
5 reapply for three years.

6 (j) If provisional provider status or preferred provisional provider
7 status is granted pursuant to this section, a provider number shall
8 be used by the provider for each business address for which an
9 application package has been approved. This provider number
10 shall be used exclusively for the locations for which it is issued,
11 unless the practice of the provider's profession or delivery of
12 services, goods, supplies, or merchandise is such that services,
13 goods, supplies, or merchandise are rendered or delivered at
14 locations other than the provider's business address and this
15 practice or delivery of services, goods, supplies, or merchandise
16 has been disclosed in the application package approved by the
17 department when the provisional provider status or preferred
18 provisional provider status was granted.

19 (k) Except for providers subject to subdivision (c) of Section
20 14043.47, a provider currently enrolled in the Medi-Cal program
21 at one or more locations who has submitted an application package
22 for enrollment at a new location or a change in location pursuant
23 to subdivision (a), or filed a change of location form pursuant to
24 subdivision (b), may submit claims for services, goods, supplies,
25 or merchandise rendered at the new location until the application
26 package or change of location form is approved or denied under
27 this section, and shall not be subject, during that period, to
28 deactivation, or be subject to any delay or nonpayment of claims
29 as a result of billing for services rendered at the new location as
30 herein authorized. However, the provider shall be considered during
31 that period to have been granted provisional provider status or
32 preferred provisional provider status and be subject to termination
33 of that status pursuant to Section 14043.27. A provider that is
34 subject to subdivision (c) of Section 14043.47 may come within
35 the scope of this subdivision upon submitting documentation in
36 the application package that identifies the physician providing
37 supervision for every three locations. If a provider submits claims
38 for services rendered at a new location before the application for
39 that location is received by the department, the department may
40 deny the claim.

1 (l) An applicant or a provider whose application for enrollment,
2 continued enrollment, or a new location or change in location has
3 been denied pursuant to this section, may appeal the denial in
4 accordance with Section 14043.65.

5 (m) (1) Upon receipt of a complete and accurate claim for an
6 individual nurse provider, the department shall adjudicate the claim
7 within an average of 30 days.

8 (2) During the budget proceedings of the 2006–07 fiscal year,
9 and each fiscal year thereafter, the department shall provide data
10 to the Legislature specifying the timeframe under which it has
11 processed and approved the provider applications submitted by
12 individual nurse providers.

13 (3) For purposes of this subdivision, “individual nurse providers”
14 are providers authorized under certain home- and community-based
15 waivers and under the state plan to provide nursing services to
16 Medi-Cal recipients in the recipients’ own homes rather than in
17 institutional settings.

18 (n) The amendments to subdivision (b), which implement a
19 change of location form, and the addition of paragraph (2) to
20 subdivision (c), the amendments to subdivision (e), and the addition
21 of subdivision (g), which prescribe different processing timeframes
22 for physicians and physician groups, as contained in Chapter 693
23 of the Statutes of 2007, shall become operative on July 1, 2008.

24 ~~SEC. 247.~~

25 *SEC. 246.* Section 14045 of the Welfare and Institutions Code
26 is amended to read:

27 14045. (a) A provider shall not submit a reimbursement request
28 to the Medi-Cal program containing a beneficiary’s social security
29 number if the department has issued that beneficiary a Medi-Cal
30 beneficiary identification card containing a beneficiary number
31 with the issuance date included in that number.

32 (b) This section shall not apply to the submission of a request
33 by a provider for beneficiary eligibility.

34 (c) In order to reduce medical fraud and the black market for
35 stolen social security cards, the State Department of Health Care
36 Services may establish an automated HIPAA-compliant system
37 using HIPAA transactions whereby all providers can access a
38 beneficiary’s identification card number for submitting
39 reimbursement requests.

1 (d) When the provider makes a good faith effort to obtain a
2 recipient’s beneficiary identification card number, this section
3 shall not apply to the following types of services, or the following
4 provider types, until the time that the department is able to establish
5 a system described in subdivision (c):

6 (1) A hospital licensed pursuant to Chapter 2 (commencing with
7 Section 1250) of Division 2 of the Health and Safety Code.

8 (2) A long-term health care facility, as defined in Section 1418
9 of the Health and Safety Code.

10 (3) A primary care clinic that is licensed pursuant to subdivision
11 (a) of Section 1204 of the Health and Safety Code.

12 (4) Emergency medical transportation services.

13 (5) A hospital-based physician.

14 ~~SEC. 248:~~

15 *SEC. 247.* Section 14154.3 of the Welfare and Institutions
16 Code is amended to read:

17 14154.3. (a) A provision of a Budget Act or other statute shall
18 not be interpreted or applied to limit the amount of federal financial
19 participation, otherwise available under federal law, which may
20 be reimbursable to counties in support of Medi-Cal administration
21 costs for eligibility determinations. A provision of a Budget Act
22 or another statute shall not be interpreted or applied to restrict the
23 amount of federal financial participation for Medi-Cal
24 administration costs, for eligibility determinations, otherwise
25 available under federal law, which may be claimed by the
26 department, and, upon receipt from the federal government,
27 transferred by the department to a county.

28 (b) The Budget Acts referred to in subdivision (a) include, but
29 are not limited to:

30 (1) Chapter 510 of the Statutes of 1980, including Item 288 of
31 Section 2 thereof.

32 (2) Chapter 99 of the Statutes of 1981, including Items
33 426-101-001 and 426-101-890 of Section 2.00 thereof.

34 (3) Chapter 326 of the Statutes of 1982, including Items
35 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

36 (4) Chapter 324 of the Statutes of 1983, including Items
37 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

38 (5) Chapter 258 of the Statutes of 1984, including Items
39 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

1 (6) Chapter 111 of the Statutes of 1985, including Items
2 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

3 (7) Chapter 186 of the Statutes of 1986, including Items
4 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

5 Provisions of the Budget Acts listed in paragraphs (1) to (7),
6 inclusive, shall not be interpreted or applied as a prohibition
7 regarding the amount of costs counties may incur for Medi-Cal
8 eligibility administration activities. The provisions of those Budget
9 Acts shall be interpreted and applied as a means of limiting the
10 allocation of state general funds to be paid in support of Medi-Cal
11 eligibility determination activities.

12 (c) To the extent necessary to effectuate the intent of
13 subdivisions (a) and (b), the following Budget Act provisions shall
14 be inoperative:

15 (1) Provision 17.5 of Item 426-101-890 of Section 2.00 of
16 Chapter 99 of the Statutes of 1981.

17 (2) The incorporation by reference of Provision 16 of Item
18 4260-101-001 of Section 2.00 of Chapter 326 of the Statutes of
19 1982 into Provision 1 of Item 4260-101-890 of that chapter.

20 (3) The incorporation by reference of Provision 15 of Item
21 4260-101-001 of Section 2.00 of Chapter 324 of the Statutes of
22 1983 into Provision 1 of Item 4260-101-890 of Section 2.00 of
23 that chapter.

24 (d) Sections 14154 and 14154.1 shall not be interpreted or
25 applied to restrict the amount of federal financial participation,
26 not deferred or disallowed by federal law or regulation which may
27 be reimbursable to any county for Medi-Cal administration costs
28 for eligibility determinations. The County Administrative Cost
29 Control Plan established pursuant to Section 14154 shall not be
30 interpreted or applied as a prohibition regarding the amount of
31 costs counties may incur for Medi-Cal county administration costs.
32 That plan shall be interpreted and applied only as a means of
33 limiting the allocation of state general funds to be paid in support
34 of those county costs.

35 (e) Should federal financial participation be deferred or
36 disallowed regarding funds transferred by the department to a
37 county for costs incurred for Medi-Cal eligibility determinations,
38 and that federal financial participation was matched by county
39 expenditures, the county which received those federal funds shall
40 repay the funds in question at such time as the federal deferral or

1 disallowance has been issued. If the federal deferral or disallowance
2 is noticed or issued prior to the transfer of the federal funds from
3 the department to a county, the department shall not be responsible
4 for transferring the federal funds to the county until the deferral
5 or disallowance issue regarding these funds has been resolved.

6 (f) The department shall timely appeal from the federal deferrals
7 or disallowances and the affected county may assist the department
8 in preparing and presenting a pending appeal regarding a federal
9 deferral or disallowance.

10 (g) Medi-Cal eligibility determination activities are undertaken
11 by counties on behalf of the department. Reasonable and necessary
12 costs incurred by counties relating to the eligibility determination
13 activities shall be recognized as costs incurred by the state for
14 purposes of inclusion in the nonfederal share of Medi-Cal eligibility
15 determination expenditures for claiming federal financial
16 participation.

17 (h) Subdivision (e) shall not apply to agreements between the
18 department and a county executed prior to September 27, 1987.

19 ~~SEC. 249.~~

20 *SEC. 248.* Section 14407.1 of the Welfare and Institutions
21 Code is amended to read:

22 14407.1. (a) A contractor that has entered into a contract with
23 the department under this chapter, or under another Medi-Cal
24 managed care contracting authority, may offer nonmonetary
25 incentives to promote good health practices by its existing
26 Medi-Cal enrollees.

27 (b) No Medi-Cal managed care contractor may offer an incentive
28 to promote good health practices by its Medi-Cal enrollees prior
29 to written approval by the department. In the absence of other
30 countervailing considerations, the department shall approve, to
31 the extent permitted by federal law, the use by health plans of
32 nonmonetary incentives to enhance health education program
33 efforts to increase member participation, learning, and motivation
34 to do any of the following:

35 (1) Effectively use managed health care services, including
36 preventive and primary care services, obstetric care, and health
37 education services.

38 (2) Modify personal health behaviors, achieving and maintaining
39 healthy lifestyles and treatment therapies and positive health
40 outcomes.

1 (3) Follow self-care regimens and treatment therapies for
2 existing medical conditions, chronic diseases, or health conditions.

3 (c) If a contractor is a publicly operated entity, the offering of
4 a department-approved, nonmonetary incentive to promote good
5 health practices by enrollees shall not constitute a gift of public
6 funds.

7 (d) Violations of this section shall be subject to the requirements
8 and penalties set forth in Sections 14408 and 14409, and any
9 regulations adopted by the department pursuant to this article.

10 (e) The department shall develop and publish written guidelines
11 for the appropriate use of nonmonetary incentives that may be
12 offered to Medi-Cal enrollees.

13 ~~SEC. 250.~~

14 *SEC. 249.* Section 15657.3 of the Welfare and Institutions
15 Code is amended to read:

16 15657.3. (a) The department of the superior court having
17 jurisdiction over probate conservatorships shall also have
18 concurrent jurisdiction over civil actions and proceedings involving
19 a claim for relief arising out of the abduction, as defined in Section
20 15610.06, or the abuse of an elderly or dependent adult, if a
21 conservator has been appointed for the plaintiff prior to the
22 initiation of the action for abuse.

23 (b) The department of the superior court having jurisdiction
24 over probate conservatorships shall not grant relief under this
25 article if the court determines that the matter should be determined
26 in a civil action, but shall instead transfer the matter to the general
27 civil calendar of the superior court. The court need not abate a
28 proceeding for relief pursuant to this article if the court determines
29 that the civil action was filed for the purpose of delay.

30 (c) The death of the elder or dependent adult does not cause the
31 court to lose jurisdiction of a claim for relief for abuse of that elder
32 or dependent adult.

33 (d) (1) Subject to paragraph (2) and subdivision (e), after the
34 death of the elder or dependent adult, the right to commence or
35 maintain an action shall pass to the personal representative of the
36 decedent. If there is no personal representative, the right to
37 commence or maintain an action shall pass to any of the following,
38 if the requirements of Section 377.32 of the Code of Civil
39 Procedure are met:

40 (A) An intestate heir whose interest is affected by the action.

1 (B) The decedent’s successor in interest, as defined in Section
2 377.11 of the Code of Civil Procedure.

3 (C) An interested person, as defined in Section 48 of the Probate
4 Code, as limited in this subparagraph. As used in this subparagraph,
5 “an interested person” does not include a creditor or a person who
6 has a claim against the estate and who is not an heir or beneficiary
7 of the decedent’s estate.

8 (2) If the personal representative refuses to commence or
9 maintain an action or if the personal representative’s family or an
10 affiliate, as those terms are defined in subdivision (c) of Section
11 1064 of the Probate Code, is alleged to have committed abuse of
12 the elder or dependent adult, the persons described in
13 subparagraphs (A), (B), and (C) of paragraph (1) shall have
14 standing to commence or maintain an action for elder abuse. This
15 paragraph does not require the court to resolve the merits of an
16 elder abuse action for purposes of finding that a plaintiff who meets
17 the qualifications of subparagraphs (A), (B), and (C) of paragraph
18 (1) has standing to commence or maintain such an action.

19 (e) If two or more persons who are either described in
20 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (d)
21 or a personal representative claim to have standing to commence
22 or maintain an action for elder abuse, upon petition or motion, the
23 court in which the action or proceeding is pending, may make any
24 order concerning the parties that is appropriate to ensure the proper
25 administration of justice in the case pursuant to Section 377.33 of
26 the Code of Civil Procedure.

27 (f) This section does not affect the applicable statute of
28 limitations for commencing an action for relief for abuse of an
29 elderly or dependent adult.

30 ~~SEC. 251.~~

31 *SEC. 250.* Section 15660 of the Welfare and Institutions Code
32 is amended to read:

33 15660. (a) The Department of Justice shall secure any criminal
34 record of a person to determine whether the person has ever been
35 convicted of a violation or attempted violation of Section 243.4
36 of the Penal Code, a sex offense against a minor, or of a felony
37 that requires registration pursuant to Section 290 of the Penal Code,
38 or whether the person has been convicted or incarcerated within
39 the last 10 years as the result of committing a violation or attempted
40 violation of Section 273a, 273d, or subdivision (a) or (b) of Section

1 368, of the Penal Code, or as the result of committing a theft,
2 robbery, burglary, or any felony, and shall provide a subsequent
3 arrest notification pursuant to Section 11105.2 of the Penal Code,
4 if both of the following conditions are met:

5 (1) An employer of the person requests the determination and
6 submits fingerprints of the person to the Department of Justice.
7 For purposes of this paragraph, “employer” includes, but is not
8 limited to, an in-home supportive services recipient, as defined by
9 Section 12302.2, a recipient of personal care services under the
10 Medi-Cal program pursuant to Section 14132.95, and a public
11 authority or nonprofit consortium, as described in subdivision (a)
12 of Section 12301.6.

13 (2) The person is unlicensed and provides nonmedical domestic
14 or personal care to an aged or disabled adult in the adult’s own
15 home.

16 (b) (1) If it is found that the person has ever been convicted of
17 a violation or attempted violation of Section 243.4 of the Penal
18 Code, a sex offense against a minor, or of a felony that requires
19 registration pursuant to Section 290 of the Penal Code, or that the
20 person has been convicted or incarcerated within the last 10 years
21 as the result of committing a violation or attempted violation of
22 Section 273a, 273d, or subdivision (a) or (b) of Section 368, of
23 the Penal Code, or as the result of committing a theft, robbery,
24 burglary, or any felony, the Department of Justice shall notify the
25 employer of that fact. If no criminal record information has been
26 recorded, the Department of Justice shall provide the employer
27 with a statement of that fact.

28 (2) An employer may deny employment to a person who is the
29 subject of a report under paragraph (1) if the report indicates that
30 the person has committed any of the crimes identified in paragraph
31 (1).

32 (3) This section shall not require an employer to hire a person
33 who is the subject of a report under paragraph (1) if the report
34 indicates that the person has not committed any of the crimes
35 indicated in paragraph (1).

36 (c) (1) Fingerprints shall be on a card provided by the
37 Department of Justice for the purpose of obtaining a set of
38 fingerprints. The employer shall submit the fingerprints to the
39 Department of Justice. Within 30 calendar days of the receipt of
40 the fingerprints, the Department of Justice shall notify the employer

1 of the criminal record information, as provided in this subdivision.
2 If no criminal record information has been recorded, the
3 Department of Justice shall provide the employer with a statement
4 of that fact as soon as possible, but not later than 30 calendar days
5 of receipt of the fingerprints. If new fingerprints are required for
6 processing, the Department of Justice, as soon as possible, but not
7 later than 30 calendar days from the date of receipt of the
8 fingerprints, shall notify the employer that the fingerprints were
9 illegible.

10 (2) Fingerprints may be taken by a local law enforcement officer
11 or agency for purposes of paragraph (1).

12 (3) Counties shall notify a recipient of, or applicant for, in-home
13 supportive services or personal care services under the Medi-Cal
14 program, upon his or her application for in-home supportive
15 services or personal care services or during his or her annual
16 redetermination, or upon the recipient's changing providers, that
17 a criminal record check is available, and that the check can be
18 performed by the Department of Justice.

19 (d) (1) The Department of Justice shall charge a fee to the
20 employer to cover the costs of administering this section.

21 (2) (A) If the employer is an in-home supportive services
22 recipient, as defined in Section 12302.2, a recipient of personal
23 care services under the Medi-Cal program pursuant to Section
24 14132.95, or a public authority or nonprofit consortium as
25 described in subdivision (a) of Section 12301.6, the fee shall be
26 shared by the county and the state in the same ratio as described
27 in Section 12306.

28 (B) (i) Notwithstanding any other provision of law, and except
29 as provided in clause (ii), the department shall, no later than
30 January 1, 2009, implement subparagraph (A) through an all county
31 letter from the director.

32 (ii) No later than July 1, 2009, the department shall adopt
33 regulations to implement the provisions listed in clause (i).

34 (e) It is the intent of the Legislature that the Department of
35 Justice charge a fee to cover its cost in providing services in
36 accordance with this section to comply with the 30-calendar-day
37 requirement for provision to the department of the criminal record
38 information, as contained in subdivision (c).

1 ~~SEC. 252.~~

2 *SEC. 251.* Section 16522.1 of the Welfare and Institutions
3 Code is amended to read:

4 16522.1. In order to be licensed pursuant to Section 1559.110
5 of the Health and Safety Code, an applicant shall obtain
6 certification from the county department of social services or the
7 county probation department that the facility program provides all
8 of the following:

9 (a) (1) Admission criteria for participants in the program,
10 including, but not limited to, consideration of the applicant's age,
11 previous placement history, delinquency history, history of drug
12 or alcohol abuse, current strengths, level of education, mental
13 health history, medical history, prospects for successful
14 participation in the program, and work experience. Youth who are
15 wards of the court described in Section 602 and youth receiving
16 psychotropic medications shall be eligible for consideration to
17 participate in the program, and shall not be automatically excluded
18 due to these factors.

19 (2) The department shall review the admission criteria to ensure
20 that the criteria are sufficient to protect participants and that they
21 do not discriminate on the basis of any characteristic listed or
22 defined in Section 11135 of the Government Code.

23 (b) Strict employment criteria that include a consideration of
24 the employee's age, drug or alcohol history, and experience in
25 working with persons in this age group.

26 (c) A training program designed to educate employees who
27 work directly with participants about the characteristics of persons
28 in this age group placed in long-term care settings, and designed
29 to ensure that these employees are able to adequately supervise
30 and counsel participants and to provide them with training in
31 independent living skills.

32 (d) A detailed plan for monitoring the placement of persons
33 under the licensee's care.

34 (e) A contract between the participating person and the licensee
35 that specifically sets out the requirements for each party, and in
36 which the licensee and the participant agree to the requirements
37 of this article.

38 (f) An allowance to be provided to each participant in the
39 program. In the case of a participant living independently, this

- 1 allowance shall be sufficient for the participant to purchase food
2 and other necessities.
- 3 (g) A system for payment for utilities, telephone, and rent.
- 4 (h) Policies regarding all of the following:
- 5 (1) Education requirements.
- 6 (2) Work expectations.
- 7 (3) Savings requirements.
- 8 (4) Personal safety.
- 9 (5) Visitors, including, but not limited to, visitation by the
10 placement auditor pursuant to subdivision (d).
- 11 (6) Emergencies.
- 12 (7) Medical problems.
- 13 (8) Disciplinary measures.
- 14 (9) Child care.
- 15 (10) Pregnancy.
- 16 (11) Curfew.
- 17 (12) Apartment cleanliness.
- 18 (13) Use of utilities and telephone.
- 19 (14) Budgeting.
- 20 (15) Care of furnishings.
- 21 (16) Decorating of apartments.
- 22 (17) Cars.
- 23 (18) Lending or borrowing money.
- 24 (19) Unauthorized purchases.
- 25 (20) Dating.
- 26 (21) Grounds for termination that may include, but shall not be
27 limited to, illegal activities or harboring runaways.
- 28 (i) Apartment furnishings, and a policy on disposition of the
29 furnishings when the participant completes the program.
- 30 (j) Evaluation of the participant's progress in the program and
31 reporting to the independent living program and to the department
32 regarding that progress.
- 33 (k) A linkage to the federal Workforce Investment Act of 1998
34 (29 U.S.C. Sec. 2801 et seq.) program administered in the local
35 area to provide employment training to eligible participants.
- 36 ~~SEC. 253.~~
- 37 *SEC. 252.* Section 19630.5 of the Welfare and Institutions
38 Code is amended to read:
- 39 19630.5. (a) The Blind Vendor Revolving Loan Fund is hereby
40 created in the State Treasury, and, notwithstanding Section 13340

1 of the Government Code, is continuously appropriated without
2 regard to fiscal years to the department for the purposes specified
3 in this section. The fund shall be interest bearing. Commencing
4 January 1, 2008, the fund is hereby renamed the BEP Vendor Loan
5 Interest Rate Buy-Down Fund.

6 (b) The fund shall consist of moneys appropriated to that fund
7 by the Legislature, and notwithstanding Section 16305.7 of the
8 Government Code, all interest, dividends, and pecuniary gains
9 from investments or deposits of moneys in the fund.

10 (c) (1) Moneys in the fund shall be used by the department for
11 the purpose of reducing the interest that vendors are required to
12 pay for loans issued by an eligible lender to purchase inventory
13 and equipment for vending facilities.

14 (2) The department shall make funding contingent upon the
15 vendor's good standing in the Business Enterprises Program and
16 a determination that the department has not paid interest on another
17 loan obtained by the vendor.

18 (3) Upon a determination that a vendor is eligible, the
19 department shall pay, on behalf of the vendor, to an eligible lender,
20 an amount not to exceed five thousand dollars (\$5,000) to reduce
21 the fair market interest rate of a loan described in paragraph (1)
22 by up to 3 percent.

23 (4) If a vendor fails to repay a loan to an eligible lender, the
24 lender shall reimburse the fund for the fund's share of any interest
25 not yet accrued as of the time of default by the vendor.

26 (d) In determining eligibility for loan interest buy-down
27 assistance from this fund, the department shall make any loan
28 interest buy-down assistance contingent upon a determination that
29 the blind vendor reasonably can be expected to repay the loan
30 based on the vendor's expected income and that the applicant is
31 currently an active vendor and has been in the Business Enterprises
32 Program for at least one year.

33 (e) For purposes of this section, "eligible lender" means a
34 financial institution organized, chartered, or holding a license or
35 authorization certificate under a law of this state or in the United
36 States to make loans or extend credit and subject to supervision
37 by an official or agency of this state or the United States.

38 (f) Loan interest buy-down assistance pursuant to this section
39 shall be made without regard to race, religion, creed, or sex.

1 (g) The total amount of interest buy-down assistance that may
2 be provided under this section is limited to the amount contained
3 in the fund, and the state shall not be liable beyond the amount
4 contained in that fund for these debts, obligations, and liabilities.

5 (h) In the event that the total amount of loan interest buy-down
6 assistance applied for under this section exceeds the total amount
7 of assistance that may be provided pursuant to this section, the
8 department may establish a system of priorities for the approval
9 of applications.

10 ~~SEC. 254.~~

11 *SEC. 253.* Section 34 of the Sacramento Area Flood Control
12 Agency Act (Chapter 510 of the Statutes of 1990), as amended by
13 Section 2 of Chapter 619 of the Statutes of 2007, is amended to
14 read:

15 Sec. 34. (a) “Project” means the acquisition, construction,
16 maintenance, or operation of a flood control facility authorized
17 under the agreement and not inconsistent with this act, including,
18 but not limited to, acquisition of rights-of-way and easements and
19 payment of incidental expenses.

20 (b) This act does not authorize the agency to exercise the power
21 of eminent domain outside its boundaries.

22 (c) Participation in a project includes making payments or other
23 contributions pursuant to a contract entered into with another
24 governmental agency that requires the other governmental agency
25 to perform work on a project.

26 (d) The acquisition of rights-of-way and easements outside the
27 agency’s boundaries shall be consistent with applicable county
28 plans, including county general plans, and the State Plan of Flood
29 Control.

30 (e) This section does not alter the existing powers granted to
31 members of the agreement.

32 (f) This section does not preclude the acquisition of time-limited
33 easements.

34 ~~SEC. 255.~~

35 *SEC. 254.* Section 1107 of the Ojai Basin Groundwater
36 Management Agency Act (Chapter 750 of the Statutes of 1991),
37 as amended by Section 1 of Chapter 551 of the Statutes of 2007,
38 is amended to read:

1 Sec. 1107. (a) Except as provided in subdivision (b), the
2 groundwater extraction charge shall not exceed seven dollars and
3 fifty cents (\$7.50) per acre-foot pumped per year.

4 (b) The board may establish a groundwater extraction charge
5 maximum limitation that exceeds the amount specified in
6 subdivision (a) if both of the following apply:

7 (1) The imposition of the groundwater extraction charge is
8 approved by a majority vote of the operators that are subject to the
9 charge, with the votes weighted based on the volume of water
10 extracted by each operator. Votes shall be calculated based on a
11 three-year average of production from the basin, as determined by
12 payments of groundwater extraction charges to the agency during
13 the three years immediately preceding the vote, except that for
14 operators with facilities in use less than three years, votes shall be
15 weighted based upon a single-year average if the facility has been
16 in use less than two years, or weighted based upon a two-year
17 average if the facility has been in use more than two years and less
18 than three years. An operator shall be entitled to one vote for each
19 averaged acre-foot of groundwater pumped. A change in ownership
20 shall not affect the history of production from any well.

21 (2) The groundwater extraction charge does not exceed
22 twenty-five dollars (\$25) per acre-foot pumped per year.

23 ~~SEC. 256.~~

24 *SEC. 255.* Section 1 of Chapter 58 of the Statutes of 1997, as
25 amended by Chapter 525 of the Statutes of 2007, is amended to
26 read:

27 Section 1. (a) A charter school operating under a charter
28 approved before June 1, 1997, by the county board of education
29 of a county of the first class to serve at-risk pupils, may operate
30 until June 30, 2013. The continuation of the authority of a charter
31 school to operate pursuant to this subdivision after June 30, 2008,
32 shall be subject to the approval of that county board of education.

33 (b) Notwithstanding any other provisions of the Education Code,
34 except as set forth in subdivision (c), for the 2007–08 to 2012–13
35 fiscal years, inclusive, the attendance of pupils in a charter school
36 to which this section applies shall be funded at the same rates for
37 the same categories of pupils as community schools and community
38 day schools in the same county.

39 (c) A charter school operated pursuant to subdivision (a), if its
40 charter so provides, may operate one or more community day

1 schools in compliance with Article 3 (commencing with Section
2 48660) of Chapter 4 of Part 27 of Division 4 of Title 2 of the
3 Education Code, except for compliance with the employment
4 requirements in subdivision (a) of Section 48663 and subdivision
5 (c) of Section 48664 of the Education Code, and the funded average
6 daily attendance limitations of paragraphs (1) and (2) of subdivision
7 (a) of Section 48664 of the Education Code, and be funded for not
8 more than 2,000 units of average daily attendance in any fiscal
9 year, to the extent that funding is appropriated therefor, pursuant
10 to subdivision (a) of Section 48664 of the Education Code, as if
11 it were a community day school operated by a county. The average
12 daily attendance of a charter school operating pursuant to this
13 section shall not be in addition to the average daily attendance
14 limitation provided pursuant to subdivision (a) of Section 48664
15 of the Education Code.

16 (d) A county board of education that has approved a charter
17 school as set forth in subdivision (a) shall establish specific
18 accountability criteria to annually measure the performance of the
19 charter school. The county board of education shall annually report
20 the measurement to the State Department of Education, the
21 Department of Finance, the Assembly Committee on Education,
22 the Assembly Committee on Appropriations, the Senate Committee
23 on Education, and the Senate Committee on Appropriations. The
24 accountability criteria shall comply with the alternative
25 accountability system described by subdivision (h) of Section
26 52052 of the Education Code.

27 (e) If a charter school does not comply with the performance
28 criteria described in subdivision (d), the charter school shall submit
29 to the county board of education a plan for improvement that is
30 designed to enable the charter school to comply with the criteria
31 within a timeframe determined by the county board of education.

32 ~~SEC. 257.~~

33 *SEC. 256.* Section 2 of Chapter 4 of the Statutes of 2007 is
34 amended to read:

35 Sec. 2. For purposes of this act:

36 (a) “Applicant committee agreement” means an agreement to
37 be entered into between the Organizing Committee for the Olympic
38 Games (OCOG) and the United States Olympic Committee
39 (USOC) if, and upon, the USOC’s selection on or about April 14,

1 2007, of the City of Los Angeles as the official United States
2 candidate city.

3 (b) “Bid committee agreement” means an agreement entered
4 into between the OCOG and the USOC governing the OCOG and
5 the bid process.

6 (c) “Endorsing municipality” means the City of Los Angeles,
7 which has authorized a bid by the OCOG for selection of the
8 municipality as the site of the Olympic Games and Paralympic
9 Games.

10 (d) “Games” means the 2016 Olympic Games.

11 (e) “Games support contract” means a joinder undertaking, a
12 joinder agreement, or a similar contract executed by the Governor
13 and containing terms permitted or required by this act.

14 (f) “Joinder agreement” means an agreement entered into by:

15 (1) The Governor, on behalf of this state, and a site selection
16 organization setting out representations and assurances by the state
17 in connection with the selection of a site in this state for the
18 location of the games.

19 (2) The endorsing municipality and a site selection organization
20 setting out representations and assurances by the endorsing
21 municipality in connection with the selection of a site in this state
22 for the location of the games.

23 (g) “Joinder undertaking” means an agreement entered into by:

24 (1) The Governor, on behalf of this state, and a site selection
25 organization that the state will execute a joinder agreement in the
26 event that the site selection organization selects a site in this state
27 for the games.

28 (2) The endorsing municipality and a site selection organization
29 that the endorsing municipality will execute a joinder agreement
30 in the event that the site selection organization selects a site in this
31 state for the games.

32 (h) “OCOG” means a nonprofit corporation, or its successor in
33 interest, that:

34 (1) Has been authorized by the endorsing municipality to pursue
35 an application and bid on the applicant’s behalf to a site selection
36 organization for selection as the site for the games.

37 (2) With the authorization of the endorsing municipality, has
38 executed the bid committee agreement with a site selection
39 organization regarding a bid to host the games.

1 (i) “Site selection organization” means the United States
2 Olympic Committee, the International Olympic Committee, the
3 International Paralympic Committee, all three, or some
4 combination, as applicable.

5 ~~SEC. 258.~~

6 *SEC. 257.* Section 4 of Chapter 4 of the Statutes of 2007 is
7 amended to read:

8 Sec. 4. (a) The Governor may agree, in accordance with law
9 and subject to Sections 5 and 6 of this act, in a joinder undertaking
10 entered into with a site selection organization that:

11 (1) The Governor shall execute a joinder agreement if the site
12 selection organization selects a site in this state for the games.

13 (2) The state shall refrain, during the period, or any portion
14 thereof, between the execution of the joinder undertaking and
15 award by the International Olympic Committee (IOC) of the games
16 to a host city, from becoming a party to or approving or consenting
17 to an act, contract, commitment, or other action contrary to, or
18 which might affect, any of the obligations stipulated in the joinder
19 agreement.

20 (3) The Governor may agree that a dispute in connection with
21 the joinder undertaking arising during the period between the
22 execution of the joinder undertaking and the IOC’s award of the
23 games to a host city shall be definitively settled as provided in the
24 bid committee agreement.

25 (b) The Governor may agree in a joinder agreement that the
26 state shall, in accordance with law and subject to Sections 5 and
27 6 of this act, do the following:

28 (1) Provide or cause to be provided any or all of the state
29 government funding, facilities, and other resources specified in
30 the OCOG’s bid to host the games.

31 (2) The state will be liable, solely by means of the funding
32 mechanism established by Sections 5 and 6 of this act, for:

33 (A) Obligations of the OCOG to a site selection organization,
34 including obligations indemnifying the site selection organization
35 against claims of and liabilities to third parties arising out of or
36 relating to the games.

37 (B) Any financial deficit relating to the OCOG or the games.

38 (3) The state’s liability shall not exceed the amount of funds
39 appropriated to the Olympic Games Trust Fund established in

1 Section 5 of this act. Any liability above this amount shall be the
2 responsibility of the OCOG.

3 (4) Acknowledge that the OCOG will be bound by a series of
4 agreements with the site selection organization as set forth in the
5 joinder agreement.

6 (c) The Governor shall execute a joinder undertaking and a
7 joinder agreement, provided the parties conform with this act.

8 (d) A games support contract may contain any additional
9 provisions the Governor requires in order to carry out the purposes
10 of this act.

11 ~~SEC. 259.~~

12 *SEC. 258.* Section 2 of Chapter 26 of the Statutes of 2007 is
13 amended to read:

14 Sec. 2. The amendment of Section 20150.1 made by this act
15 does not constitute a change in, but is declaratory of, existing law.

16 ~~SEC. 260.~~

17 *SEC. 259.* Section 2 of Chapter 451 of the Statutes of 2007 is
18 amended to read:

19 Sec. 2. The Legislature finds and declares that a special law is
20 necessary and that a general law cannot be made applicable within
21 the meaning of Section 16 of Article IV of the California
22 Constitution because of unique circumstances of community
23 familiarity with the program in Section 1 of this act, applicable
24 only to the Santa Cruz Metropolitan Transit District and the Santa
25 Clara Valley Transportation Authority.

26 ~~SEC. 261.~~

27 *SEC. 260.* Any section of any act enacted by the Legislature
28 during the 2008 calendar year that takes effect on or before January
29 1, 2009, and that amends, amends and renumbers, adds, repeals
30 and adds, or repeals a section that is amended, amended and
31 renumbered, added, repealed and added, or repealed by this act,
32 shall prevail over this act, whether that act is enacted prior to, or
33 subsequent to, the enactment of this act. The repeal, or repeal and
34 addition, of any article, chapter, part, title, or division of any code
35 by this act shall not become operative if any section of any other
36 act that is enacted by the Legislature during the 2008 calendar year
37 and takes effect on or before January 1, 2009, amends, amends

- 1 and renumbers, adds, repeals and adds, or repeals any section
- 2 contained in that article, chapter, part, title, or division.

O